

ton Tax Refund measure pending before Congress,

Have carefully compared same and find it correctly enrolled.

STOUT, Chairman.

TWENTY-SIXTH DAY.

(Friday, February 13, 1925.)

The House met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Satterwhite.

The roll was called and the following members were present:

Acker.	Gray.
Albritton.	Hagaman.
Alexander	Hall.
of Bastrop.	Harman.
Amsler.	Harper.
Atkinson.	High.
Avis.	Hollowell.
Baker of Orange.	Hoskins.
Baker of Panola.	Jacks.
Barker.	Jasper.
Barron.	Johnson.
Bartlett.	Jordan.
Bateman.	Justice.
Bean.	Kayton.
Bedford.	Kemble.
Bird.	Kenyon.
Blount.	Kinnear.
Bobbitt.	Kittrell.
Boggs.	Laird.
Bonham.	Lane of Hamilton.
Brown.	Lane of Harrison.
Cade.	Lipscomb.
Carter.	Loftin.
Coffey.	Mankin.
Conway.	Masterson.
Coody.	McBride.
Covey.	McDonald.
Cox of Lamar.	McDougald.
Cox of Navarro.	McFarlane.
Cummings.	McGill.
Dale.	McKean.
Daniels.	McNatt.
Davis of Dallas.	Merritt.
Davis of Wood.	Moore.
Dinkle.	Nicholson.
Donnell.	Parish.
Downs.	Pavlica.
Dunlap.	Pearce.
Dunn of Falls.	Perdue.
Dunn of Hopkins.	Petsch.
Durham.	Poage.
Enderby.	Pool.
Farrar.	Pope.
Faulk.	Powell.
Fields.	Purl.
Finlay.	Rawlins.
Florence.	Raymer.
Foster.	Renfro.
Frnka.	Rice.
Graves.	Robinson.

Rogers.	Strong.
Rowland.	Taylor.
Runge.	Teer.
Sanford.	Thompson.
Shearer.	Tomme.
Sheats.	Veatch.
Simmons.	Wade.
Simpson.	Walker.
Sinks.	Wallace.
Smith of Nueces.	Webb.
Smith of Travis.	Wells.
Smyth.	Westbrook.
Sparks.	Wester.
Stautzenberger.	Williamson.
Stell.	Wilson.
Stevenson.	Woodruff.
Storey.	Young.
Stout.	

Absent.

Chitwood.	Low.
Houston.	Stevens.

Absent—Excused.

Alexander	Irwin.
of Limestone.	Jones.
Bryant.	King.
DeBerry.	Maxwell.
Dielmann.	Montgomery.
Hull.	Rowell.

A quorum was announced present.

Prayer was offered by Rev. J. C. Mitchell, Chaplain.

LEAVES OF ABSENCE GRANTED.

The following members were granted leave of absence on account of important business:

Mr. DeBerry for today and tomorrow, on motion of Mr. Perdue.

Mr. Montgomery for today and tomorrow, on motion of Mr. Bobbitt.

Mr. Alexander of Limestone for today and tomorrow, on motion of Mr. Young.

Mr. Dielmann for today on motion of Mr. Sinks.

Mr. Rowell for today and tomorrow, on motion of Mr. Johnson.

The following members were granted leave of absence on account of sickness:

Mr. Hull for today and tomorrow, on motion of Mr. Cade.

Mr. Bryant for today and tomorrow, on motion of Mr. Albritton.

Mr. Jones for today and tomorrow, on motion of Mr. McDougald.

HOUSE BILLS ON FIRST READING.

The following House bills, introduced today, were laid before the House, read severally first time, and referred to the appropriate committees, as follows:

By Mr. Downs:

H. B. No. 444, A bill to be entitled "An Act to amend Chapter 132, Local and Special Laws, Thirty-fifth Legislature, Regular Session, same being an act creating Pineland Independent School District No. 3 in Sabine county, Texas, by extending the boundaries of said district and providing that the annexed territory shall bear its pro rata part of an outstanding bond issue of Common School District No. 31 of said county; providing that said independent district shall be vested with all the rights, powers and privileges of a town or village incorporated under the general laws for free school purposes only and specially providing that said district may extend its boundaries in accordance with the provisions of Article 2865, R. S. 1911, without regard to the limitation as to area contained in said Article 2865, and declaring an emergency."

Referred to Committee on School Districts.

By Mr. McDougald:

H. B. No. 445, A bill to be entitled "An Act to amend Section 3, Chapter 3, Local and Special Laws, Thirty-fifth Legislature, Fourth Called Session, being entitled 'An Act to create and establish the Batson Independent School District in Hardin county, Texas,' and declaring an emergency."

Referred to Committee on School Districts.

By Mr. Boggs:

H. B. No. 446, A bill to be entitled "An Act to authorize owners of oil and gas permits and leases heretofore issued or hereafter issued on fresh water lakes to sell and transfer same as a whole or in tracts of not less than forty acres, and to authorize owners of oil and gas permits and leases on river beds to sell and transfer same as a whole or in tracts of not less than one thousand linear feet following the meanderings of the center of such river; providing for recording transfers, filing same in the General Land Office; subdividing permits and leases upon payment of certain fees; providing for dissolution of combined permits and leases; appropriating fees to general revenue and public free school fund; providing for assignees to assume obligations of the original permittee on leases on the area assigned, and declaring an emergency."

Referred to Committee on Oil, Gas and Mining.

By Mr. Covey, Mr. Cummings, Mr.

Sanford, Mr. Graves, Mr. Johnson and Mr. Webb:

H. B. No. 447, A bill to be entitled "An Act imposing an occupation tax upon theatrical, dramatic and musical comedy shows, moving picture shows, opera houses, theaters, tents, air domes, and other such structures used for public entertainment operating for private profit; said tax to be collected from the owner, proprietor or operator of such places of entertainment; said tax to be collected from all shows, moving pictures and other public entertainments or exhibitions given for profit in cities, towns and villages; the amount to be graduated according to the population of said cities, towns and villages as described herein; imposing an annual tax according to said population of said cities, towns, or villages, according to the last preceding Federal census; granting authority to such cities, towns and villages to collect an additional tax equal to one-half the State tax; repealing all laws in conflict herewith and particularly repealing Sections 13 and 36 of Article 7355, Revised Civil Statutes of the State of Texas, and Chapter 6 of the General Laws of the Third Called Session of the Thirty-eighth Legislature, and all laws or parts of laws in conflict with the provision of this act, and declaring an emergency."

Referred to Committee on Revenue and Taxation.

By Mr. Rawlins (by request):

H. B. No. 448, A bill to be entitled "An Act making certain kinds of insurance companies doing business in this State liable for additional expense, loss and injury entailed by reason of refusing to pay holders of their policies on which certain losses have occurred, and to provide a penalty therefor, together with reasonable attorney fees, and to declare an emergency."

Referred to Committee on Insurance.

By Mr. Blount:

H. B. No. 449, A bill to be entitled "An Act changing the boundaries of the Chireno Independent School District in Nacogdoches county, as created by an act of the Thirty-fifth Legislature at its Regular Session, as printed in the Local and Special Laws of the Regular Session of the Thirty-fifth Legislature at page 207, and amended by an act of the Thirty-sixth Legislature at its Regular Session, as printed at page 132, and declaring an emergency."

Referred to Committee on School Districts.

By Mr. Smith of Nueces:

H. B. No. 450, A bill to be entitled "An Act amending Chapter 9 of the Local and Special Laws of the Thirty-third Legislature, entitled 'An Act creating the Bishop Independent School District in Nueces county, Texas, including within its boundaries the municipal corporation of the city of Bishop, and known as House bill No. 57, by re-defining the boundaries of and adding to the Bishop Independent School District certain territory lying west now embraced in Common School District No. 24 in Nueces county, Texas, and providing that the entire Bishop Independent School District as herein created may, by an election held for that purpose, assume and become liable for all legal indebtedness of the Bishop Independent School District as it heretofore existed; continuing in office the present trustees until the next regular trustee election; providing for election of trustees and authorizing the board of trustees to levy, assess and collect special taxes, and conferring upon the board of trustees full powers granted under general laws and providing authority to issue bonds for the purpose of purchasing school sites and erecting, furnishing and equipping school buildings within the same, and to levy a tax therefor, and to levy tax to pay current expenses for the maintenance and support of said schools; providing for a board of equalization and prescribing the duty and authority of the board of trustees, declaring valid an issue of bonds heretofore made, declaring valid a maintenance tax heretofore voted, and repealing all laws in conflict herewith in so far as they conflict with this act, and declaring an emergency."

Referred to Committee on School Districts.

By Mr. Kenyon:

H. B. No. 451, A bill to be entitled "An Act to provide for an old age pension system for resident citizens over the age of seventy years; providing for the administration of the system through the county commissioners court of the various counties in the State and requiring the payment of the old age pension and the expense of the administration from the general revenue of the county of which the applicant is a resident; prescribing the qualifications of an applicant for a pension under the act and permitting the discontinuance of the pension on conviction of an offense or upon evidence of changed status of the pensioner, and fixing the punishment of an applicant or other person

violating any of the provisions of the act; defining certain terms used in the act, and identifying the measure as the Old Age Pension Act of the State of Texas."

Referred to Committee on State Affairs.

By Mr. Rawlins (by request):

H. B. No. 452, A bill to be entitled "An Act making certain kinds of insurance companies doing business in this State liable for additional expenses, loss and injury entailed by reason of refusing to pay holders of their policies on which certain losses have occurred and to provide a penalty therefor, together with interest and attorney's fees, and to declare an emergency."

Referred to Committee on Insurance.

By Mr. Rawlins (by request):

H. B. No. 453, A bill to be entitled "An Act making certain kinds of insurance companies doing business in this State liable for additional expenses, loss and injury entailed by reason of refusing to pay holders of their policies on which certain losses have occurred and to provide a penalty therefor, together with reasonable attorney's fees, and to declare an emergency."

Referred to Committee on Insurance.

By Mr. Jordan:

H. B. No. 454, A bill to be entitled "An Act to amend Article 6272, Chapter 103, of the Revised Statutes of Texas, as enacted by the Thirty-eighth Legislature at the Regular Session; defining indigency of 'Confederate Veteran Pensioners.'"

Referred to Committee on State Affairs.

By Mr. Jordan:

H. B. No. 455, A bill to be entitled "An Act to amend Article 2943 of Chapter 4, Title 49 of the Revised Civil Statutes of Texas, as enacted by the Thirty-sixth Legislature, at the Fourth Called Session, specifying more clearly who shall be exempted from payment of poll tax."

Referred to Committee on Revenue and Taxation.

By Mr. Jordan:

H. B. No. 456, A bill to be entitled "An Act to amend Section 2, Chapter 23, enacted at the Third Called Session of the Thirty-eighth Legislature; fixing the penalty for the violation of the act prohibiting intoxicated persons from operating motor vehicles."

Referred to Committee on Criminal Jurisprudence.

HOUSE BILL NO. 308 ON FINAL PASSAGE.

Mr. Coffey, by unanimous consent, moved to reconsider the vote by which House bill No. 308 was finally passed.

The motion to reconsider prevailed.

The Speaker then laid House bill No. 308 before the House on its final passage.

The bill having heretofore been read third time.

Mr. Coffey offered the following (committee) amendments to the bill:

(1)

In Section 1 cut out last sentence contained therein beginning with the word "and" and ending with the word "Government."

(2)

In Section 25 substitute in lieu thereof the following: "The provisions of this act are, and shall be held construed to be cumulative of all general laws of this State on the subjects treated of and embraced in this act; and provided further, that the provisions of this act shall in nowise conflict with the State laws governing State highways under the supervision of the State Highway Commission."

The amendments were severally adopted.

House bill No. 308 was then finally passed by the following vote:

Yeas—110.

Acker.	Dale.
Albritton.	Davis of Dallas.
Alexander	Davis of Wood.
of Bastrop.	Dinkle.
Amsler.	Dunlap.
Atkinson.	Durham.
Baker of Orange.	Enderby.
Baker of Panola.	Farrar.
Barker.	Fields.
Barron.	Finlay.
Bartlett.	Florence.
Bateman.	Foster.
Bean.	Graves.
Bedford.	Gray.
Bird.	Hagaman.
Bobbitt.	Hall.
Boggs.	Harper.
Cade.	High.
Carter.	Hollowell.
Coffey.	Hoskins.
Conway.	Jacks.
Coody.	Johnson.
Cox of Lamar.	Jordan.
Cummings.	Justice.

Kayton.	Robinson.
Kemble.	Rogers.
Kenyon.	Rowland.
Kinnear.	Sanford.
Kittrell.	Shearer.
Laird.	Sheats.
Lipscomb.	Simmons.
Mankin.	Simpson.
Masterson.	Sinks.
McBride.	Smith of Nueces.
McDonald.	Smith of Travis.
McDougald.	Stautzenberger.
McFarlane.	Stell.
McGill.	Stevens.
McKean.	Storey.
McNatt.	Stout.
Merritt.	Strong.
Moore.	Teer.
Nicholson.	Thompson.
Parish.	Veatch.
Pavlica.	Wade.
Pearce.	Walker.
Perdue.	Wallace.
Petsch.	Webb.
Poage.	Wells.
Pool.	Westbrook.
Pope.	Wester.
Powell.	Williamson.
Rawlins.	Wilson.
Raymer.	Woodruff.
Renfro.	Young.
Rice.	

Absent.

Avis.	Harman.
Blount.	Houston.
Bonham.	Jasper.
Brown.	Lane of Hamilton.
Chitwood.	Lane of Harrison.
Covey.	Loftin.
Cox of Navarro.	Low.
Daniels.	Purl.
Donnell.	Runge.
Downs.	Smyth.
Dunn of Falls.	Sparks.
Dunn of Hopkins.	Stevenson.
Faulk.	Taylor.
Frnka.	Tomme.

Absent—Excused.

Alexander	Irwin.
of Limestone.	Jones.
Bryant.	King.
DeBerry.	Maxwell.
Dielmann.	Montgomery.
Hull.	Rowell.

BILLS ORDERED PRINTED.

On motion of Mr. Teer, House bill No. 35, reported adversely with a minority favorable report, was ordered printed.

On motion of Mr. Robinson, House bill No. 34, reported adversely with a minority favorable report, was ordered printed.

BILL RECOMMENDED.

On motion of Mr. Jacks, House bill No. 184 was recommitted to the Committee on Claims and Accounts.

CONFERENCE COMMITTEE REPORT
ON HOUSE BILL NO. 80.

Mr. McFarlane called up for consideration at this time the following Conference Committee report:

We, your Free Conference Committee appointed by the President of the Senate and Speaker of the House, do herewith submit our report on House bill No. 80, by McFarlane et al.

We concur in the following Senate amendments: The amendment by Senator Bailey striking out the emergency clause; and the amendment by Senator Floyd requiring thirty (30) days' notice before prosecution can be had has been amended, making fifteen (15) days.

We submit the bill as amended and as agreed upon by your Free Conference Committee, which reads as follows:

H. B. No. 80. By McFarlane et al.

A BILL

To be entitled

An Act to amend paragraph No. 4 of Article 1422, Chapter 18, of the Penal Code of Texas (1911) as amended by the Thirty-third Legislature, regular term (1913), page 184 of the Acts of the Thirty-third Legislature, relating to making certain facts prima facie evidence of fraudulent intent.

Be it enacted by the Legislature of the State of Texas:

That Article 1422, Title 17, Chapter 18, Penal Code of Texas (1911), as amended by the Acts of the Thirty-third Legislature of Texas, relating to swindling, be amended so as hereafter to read as follows:

Article 1422. Certain Wrongful Acts Included.—Within the meaning of the term "swindling" are included the following wrongful acts:

1. The exchange of property upon the false pretense that the party is the owner or has the right to dispose of the property given in exchange.

2. The purchase of property upon the faith and credit of some other person upon the false pretense that such other has given the accused the right to use his name in making the acquisition.

3. The obtaining by false pretense the possession of any instrument of writing, certificate, field notes or other

paper relating to lands, the property of another, with the intent that thereby the property owner shall be defeated of a valuable right in such lands.

4. The obtaining by any person of any money or other thing of value with intent to defraud by the giving or drawing of any check, draft or order upon any bank, person, firm or corporation with which or with whom such person giving or drawing said check, draft or order has not at the time of the giving or drawing said check, draft or order, or at the time when in the ordinary course of business such check, draft or order would be presented to the drawee for payment, sufficient funds to pay same, and no good reason to believe that such check, draft or order will be paid; provided, that if said check, draft or order is not paid on presentation the return of same shall be prima facie evidence of the fraudulent intent of said person drawing or giving said check; and provided further, that if such check, draft or order is not paid within fifteen days after the same is returned unpaid, it shall be prima facie evidence that no good reason existed for believing that said check, draft or order would be paid and it shall also be prima facie evidence of intent to defraud and knowledge of insufficient funds with the drawee.

5. The special enumeration of cases of swindling above set forth shall not be understood to exclude any case which by fair construction of language comes within the meaning of the preceding article.

6. This act shall be cumulative of all other laws on this subject and should any section or provision be declared unconstitutional such decision shall not affect any of the remaining provisions of this act.

Respectfully submitted,

POLLARD,
FLOYD,
HARDIN,
WOODWARD,
STOREY,
McFARLANE,
LOFTIN,
STOUT,
WILLIAMSON,

On the Part of the Senate.

On the Part of the House.

Mr. McFarlane moved that the report be adopted.

Yeas and nays were demanded and the report was adopted by the following vote:

Yeas—84.

Acker.	Kinnear.
Albritton.	Kittrell.
Amsler.	Laird.
Atkinson.	Loftin.
Avis.	Masterson.
Baker of Panola.	McBride.
Barron.	McFarlane.
Bateman.	McKean.
Bean.	McNatt.
Bedford.	Moore.
Bird.	Pearce.
Boggs.	Perdue.
Brown.	Poage.
Carter.	Pool.
Coffey.	Pope.
Cox of Lamar.	Powell.
Cox of Navarro.	Purl.
Dale.	Rawlins.
Daniels.	Raymer.
Davis of Dallas.	Renfro.
Dinkle.	Robinson.
Donnell.	Rowland.
Downs.	Sanford.
Dunlap.	Sheats.
Durham.	Simmons.
Enderby.	Simpson.
Farrar.	Sinks.
Faulk.	Smith of Nueces.
Fields.	Sparks.
Finlay.	Stell.
Foster.	Stevens.
Frnka.	Storey.
Graves.	Stout.
Gray.	Taylor.
Hagaman.	Tomme.
Harman.	Veatch.
Harper.	Wallace.
High.	Webb.
Hoskins.	Westbrook.
Jordan.	Wester.
Justice.	Williamson.
Kemble.	Wilson.
Kenyon.	

Nays—20.

Alexander	McDougald.
of Bastrop.	McGill.
Bartlett.	Merritt.
Cade.	Rice.
Coody.	Rogers.
Covey.	Stautzenberger.
Hall.	Wade.
Hollowell.	Walker.
Kayton.	Woodruff.
Lipscomb.	Young.
Mankin.	

Present—Not Voting.

McDonald.

Absent.

Baker of Orange.	Bonham.
Barker.	Chitwood.
Blount.	Conway.
Bobbitt.	Cummings.

Davis of Wood.	Parish.
Dunn of Falls.	Pavlica.
Dunn of Hopkins.	Petsch.
Florence.	Runge.
Houston.	Shearer.
Jacks.	Smith of Travis.
Jasper.	Smyth.
Johnson.	Stevenson.
Lane of Hamilton.	Strong.
Lane of Harrison.	Teer.
Low.	Thompson.
Nicholson.	Wells.

Absent—Excused.

Alexander	Irwin.
of Limestone.	Jones.
Bryant.	King.
DeBerry.	Maxwell.
Dielmann.	Montgomery.
Hull.	Rowell.

Mr. McFarlane moved to reconsider the vote by which the report was adopted and to table the motion to reconsider.

The motion to table prevailed.

Reason for Vote.

I vote "nay" on the adoption of Free Conference report on House bill No. 80 because the time—fifteen days—is too long. It will give the professional crook a good chance to get away.

YOUNG.

RELATING TO PORTRAIT OF
STEPHEN F. AUSTIN.

Mr. Harman offered the following resolution:

Whereas, It has been found that a certain party living at Hugo, Okla., has in his possession an original painting of Stephen F. Austin; and

Whereas, It is to the best interest of the State of Texas that we preserve these early historic treasures; and

Whereas, This picture is of such a nature that it deserves the attention of the Texas Legislature; now, therefore, be it

Resolved, That the Speaker of the House of Representatives appoint a committee of three to investigate this painting and that if they find it to be worthy of the early history of Texas that they recommend back to the House whether or not in their judgment this painting should be purchased by the State of Texas.

The resolution was read second time and was adopted.

RELATING TO THE PRACTICE OF
MEDICINE.

Mr. Bean offered the following resolution:

Whereas, It is the opinion of this House that the young men and women of Texas are as intelligent now as at any time in the history of the State; and

Whereas, There is a premium on doctors of medicine in many sections of our State, and in some parts no physicians are to be found for miles and miles; therefore, be it

Resolved, That it is the sense of this House that as soon as a young man or woman can learn one thing he or she is just as capable of learning other things; and be it further

Resolved, That the House of Representatives of the Thirty-ninth Legislature go on record as recommending that the young men and women who are graduates of Texas high schools be permitted to enter any school, college, or university in which they can immediately enter upon professional training.

The resolution was read second time.

Mr. McFarlane moved that the resolution be referred to the Committee on Education, and the motion to refer was lost.

Question then recurring on the resolution, yeas and nays were demanded.

The resolution was lost by the following vote:

Yeas—44.

Albritton.	Hollowell.
Baker of Orange.	Hoskins.
Baker of Panola.	Jordan.
Bean.	Kinnear.
Bird.	Laird.
Boggs.	Masterson.
Coody.	McNatt.
Covey.	Merritt.
Cox of Lamar.	Nicholson.
Cummings.	Pavlica.
Davis of Wood.	Pearce.
Downs.	Perdue.
Durham.	Purl.
Enderby.	Simmons.
Farrar.	Stell.
Faulk.	Stevens.
Florence.	Thompson.
Graves.	Tomme.
Gray.	Veatch.
Harper.	Wallace.
High.	Webb.

Nays—62.

Acker.	Amsler.
Alexander	Atkinson.
of Bastrop.	Barker.

Barron.	Pool.
Bartlett.	Pope.
Bedford.	Powell.
Brown.	Rawlins.
Cade.	Renfro.
Coffey.	Robinson.
Conway.	Rogers.
Cox of Navarro.	Rowland.
Daniels.	Runge.
Dunn of Falls.	Sanford.
Finlay.	Shearer.
Foster.	Sheats.
Frnka.	Simpson.
Hagaman.	Sinks.
Hall.	Smith of Travis.
Harman.	Smyth.
Jasper.	Sparks.
Johnson.	Stautzenberger.
Justice.	Storey.
Kayton.	Stout.
Kemble.	Taylor.
Kenyon.	Wade.
Lipscomb.	Walker.
Mankin.	Westbrook.
McBride.	Wester.
McDougald.	Williamson.
McFarlane.	Wilson.
Moore.	Woodruff.
Parish.	Young.
Poage.	

Present—Not Voting.

Avis.	McDonald.
Bonham.	Smith of Nueces.
Carter.	Wells.

Absent.

Bateman.	Kittrell.
Blount.	Lane of Hamilton.
Bobbitt.	Lane of Harrison
Chitwood.	Loftin.
Dale.	Low.
Davis of Dallas.	McGill.
Dinkle.	McKean.
Donnell.	Petsch.
Dunlap.	Raymer.
Dunn of Hopkins.	Rice.
Fields.	Stevenson.
Houston.	Strong.
Jacks.	Teer.

Absent—Excused.

Alexander	Irwin.
of Limestone.	Jones.
Bryant.	King.
DeBerry.	Maxwell.
Dielmann.	Montgomery.
Hull.	Rowell.

BILLS AND RESOLUTION SIGNED
BY THE SPEAKER.

The Speaker signed, in the presence of the House, after giving due notice thereof, and their captions had been read

severally, the following enrolled bills and resolution:

S. B. No. 162, "An Act to create the Hobbs Independent School District in Fisher county, Texas, including therein the present Hobbs Common Consolidated District No. 18 in Fisher county; providing a board of trustees therefor, vesting said independent school district board of trustees with all the rights, powers, privileges and duties of independent districts incorporated under the general laws of Texas; validating bonds, indebtedness, contracts and tax levies of said district No. 18, and making the same valid obligations and contracts of the said Hobbs Independent District; and providing for a board of trustees to serve until the time for the next election of school trustees as provided by general law, and declaring an emergency."

S. B. No. 37, "An Act to prevent untrue and damaging statements in reference to banks, banking institutions, trust companies, surety companies, guaranty companies, title insurance companies or other financial institutions; providing the necessary penalties to accomplish such purpose, and declaring an emergency."

S. B. No. 18, "An Act to amend Chapter 15, pages 30 and 31 of the laws passed at the Regular Session of the Thirty-seventh Legislature, 1921, by changing the time and terms of holding court in the Eighty-third Judicial District so that Section 1 of said act, as it relates to said Eighty-third Judicial District shall hereafter read as follows, and declaring an emergency."

S. B. No. 216, "An Act to amend Chapter 28, Special Laws of the Thirty-second Legislature, Regular Session, being entitled 'An Act creating the Oak Alla Independent School District in Burnet county, Texas; defining its metes and bounds; providing for a board of trustees therefor; vesting it with the rights and duties of districts incorporated for school purposes only under the general laws, and declaring an emergency,' by amending Section 4 of the said act so that the same shall hereafter read as herein set out, and declaring an emergency."

S. B. No. 163, "An Act to create the Blackwell Independent School District in Nolan county, Texas, including therein the present Blackwell Common School District No. 23 in Nolan county; providing a board of trustees therefor; vesting said independent school district board

of trustees with all the rights, powers, privileges and duties conferred upon independent school districts incorporated under the general laws of Texas; validating for Blackwell Independent District current indebtedness and taxes of the said Common School District No. 23; and providing for a board of trustees to serve until the time for the next election of school trustees as provided by general law, and declaring an emergency."

S. B. No. 168, "An Act to repeal Chapter 134 of the Local and Special Laws of the Regular Session of the Thirty-third Legislature of the State of Texas, being 'An Act to create a more efficient road law for Walker county, Texas, etc.,' as amended by Chapter 6 of the Special Laws of the First Called Session of the Thirty-fourth Legislature of the State of Texas, and as further amended by Chapter 32 of the Special Laws of the Third Called Session of the Thirty-sixth Legislature of the State of Texas, to place Walker county under the operation of the general road laws of the State of Texas, and providing that nothing in this act shall affect in any wise road bonds heretofore issued by said Walker county or any subdivision thereof, or impair any existing contract executed or entered into by the commissioners court of said Walker county pursuant to the special road law hereby repealed, and declaring an emergency."

S. B. No. 77, "An Act authorizing cities and towns to establish and maintain municipal bands, and to appropriate funds of the municipality for that purpose; providing for referendum elections by the qualified property taxpaying voters of cities and towns to determine whether or not such band shall be established and maintained; authorizing the governing body of cities and towns to pass ordinances and resolutions and enter into contracts for the organization, maintenance, operation and control of such bands; exempting charters already existing from the provisions hereof; repealing laws in conflict herewith, and declaring an emergency."

S. B. No. 149, "An Act to create the One Hundred and First Judicial District of Texas; to name the counties composing said district; to prescribe the time of holding term of the district court in said district; to prescribe the jurisdiction of said court and giving authority to the judges of the One Hundred and First Judicial District of Texas, and the

Fifth Judicial District of Texas to transfer cases from their respective courts to the other said courts in Bowie county, Texas, either in term time or in vacation; to provide for the appointment of a judge for the One Hundred and First Judicial District and providing for the district attorney of the Sixth Judicial District to prosecute all criminal cases in the One Hundred and First Judicial District while sitting in Red River county until the expiration of his present term of office and thereafter for the county attorney of Red River county to prosecute all criminal cases in the district court of the One Hundred and First Judicial District while sitting in Red River county; and providing that the district clerk of each of said counties shall be the clerk for the One Hundred and First Judicial District; providing for the process issued in the Sixth Judicial District to be returnable to said One Hundred and First Judicial District in Red River county, and providing that all cases pending in the district court of Red River county and in the Sixth Judicial District at the time of the taking effect of this act be, and the same are, hereby transferred to the One Hundred and First Judicial District Court; and providing that the Sixth Judicial District shall be composed hereafter of the counties of Lamar and Fannin; and prescribing the time of holding terms of court in said Lamar and Fannin counties; and providing in case any section of this act should be held unconstitutional then and in that event it shall not affect the validity of any of the other sections hereof; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

S. B. No. 227, "An Act to amend Chapter 55, Special Laws of the Thirty-second Legislature, Regular Session, being entitled 'An Act creating the Briggs Independent School District in Burnet county, Texas; defining its metes and bounds; providing for a board of trustees therefor; vesting it with the rights and duties of districts incorporated for school purposes only under the general laws, and declaring an emergency,' by amending Section 4 of the said act so that the same shall hereafter read as herein set out, and declaring an emergency."

S. B. No. 167, "An Act creating the Matagorda Independent School District in Matagorda county, Texas; defining its boundaries, dividing said district in

two parts and dividing boundaries of each ward; providing for the election of a board of trustees to manage and control the public free schools within said district; providing for the continuance in office of the present board of trustees of the Matagorda Independent School District," etc.

S. B. No. 179, "An Act to create the White Pond Common County Line School District in Fisher and Jones counties, Texas, including therein the present White Pond Common School District No. 5 in Fisher and Jones counties; providing a board of trustees therefor, vesting said county line school district board of trustees with all the rights, powers, privileges and duties conferred upon common county line school districts incorporated under the general laws of Texas, and providing for a board of trustees to serve until the time for the next election of school trustees as provided by general law; conferring upon Fisher county jurisdiction over the said district; providing for the validation of all contracts, bonds or other indebtedness and tax levies of the present Common County Line District No. 5, as subsisting obligations and acts of the White Pond Common County Line District, as created by this act, and declaring an emergency."

S. C. R. No. 22, Relating to appropriation to cover losses sustained by farmers from pink boll worm.

S. B. No. 175, "An Act to permit the issuance to, and use by Senators and members of the House of Representatives and their families, of free railroad transportation and sleeping car accommodations."

S. B. No. 218, "An Act to repeal Chapter 50 of the Local and Special Laws of the Regular Session of the Thirty-eighth Legislature, which said act became effective the 4th day of April, 1923, and which said act created a special road system for Fayette county, Texas, and declaring an emergency."

S. B. No. 90, "An Act to exempt the county of Culberson from the provisions and operations of Articles 7256 to 7304, inclusive, of Chapter 7, Title 124, of the Revised Civil Statutes of 1911, relating to the inspection of hides and animals; repealing all laws in conflict therewith, and declaring an emergency."

S. B. No. 123, "An Act to create a lien in favor of any person, firm or corporation who may furnish any material, apparatus, mixtures, machinery or labor, to contractors who contract

for public improvements, and declaring an emergency."

H. B. No. 230, "An Act authorizing the sale to the United State of America of the American Legion Memorial Sanatorium of Texas, owned by the State of Texas and situated near the town of Kerrville, in Kerr county, Texas, including lands, buildings, improvements, equipment and appurtenances thereunto belonging; regulating the price at which same shall be sold; providing the proper portion of the funds realized from such sale shall be placed in the State Treasury and making proper disposition of the remainder; authorizing the proper instrument of conveyance to be executed, and declaring an emergency."

S. B. No. 56, "An Act to require all railway companies, and all other persons, firms and corporations to place all bridges, viaducts, overheadways, foot-bridges or wires wherever built or placed over the tracks of a railway not less than twenty-two (22) feet from the top of the rails of such track, and to place all loading platforms, houses, structures, fences, lumber, wood and other materials wherever built, placed or stored along railway lines, spurs, switches, or sidings, not less than six (6) feet from the outside rails of such main line, spur, switch or siding track; providing distance of roof of loading platforms from such track; providing a penalty for the violation of such act, to be collected by civil suit; providing for the promulgation of rules by the Railroad Commissioners in accordance with the act, for the supervision by the commission of the enforcement of such rules, and reporting any violation of the act to the Attorney General; providing further for modifications of the requirements of the act by the Railroad Commission in stipulated cases, and declaring an emergency."

S. B. No. 113, "An Act amending Section 124a of Chapter 124 of the General Laws of the Regular Session of the Twenty-ninth Legislature, page 296, so as to make it a felony to violate said section, said section being upon the subject of preventing fraud in teachers' examinations, and declaring an emergency."

H. B. No. 2, "An Act abolishing the Markets and Warehouse Department and Weights and Measures Department, conferring all authority, powers, duties, functions, rights and liabilities of the Commission of Markets and Warehouses and of said Markets and Warehouse Department and Weights and Measures

Department upon the Commissioner of Agriculture; abolishing the board, consisting of the Governor, Commissioner of Agriculture, and the Commissioner of Insurance and Banking, created by Chapter 5, General Laws of the Second Called Session of the Thirty-third Legislature, and vesting the powers and duties of said board in the Commissioner of Agriculture; conferring the powers and duties of the Banking and Insurance Commissioner, relative to warehouses, upon the Commissioner of Agriculture, except such as are conferred by Chapter 3, General Laws, Second Called Session of the Thirty-third Legislature, conferring powers and authority upon the Commissioner of Agriculture to administer the provisions of Chapter 5, General Laws, Second Called Session of the Thirty-third Legislature, Chapter 41, General Laws, First Called Session of the Thirty-fifth Legislature, and Chapters 116 and 126 of the General Laws, Regular Session of the Thirty-sixth Legislature, and such powers and duties as are conferred upon the Commissioner of Markets and Warehouses by Chapter 22, Acts of the Regular Session of the Thirty-seventh Legislature, and Chapter 38, Acts of the Second Called Session of the Thirty-eighth Legislature, or so much of said statutes as are in force; transferring the appropriations of the Markets and Warehouse Department and the Weights and Measures Department to the Commissioner of Agriculture, authorizing said Commissioner to rearrange salaries and eliminate duplicating offices or positions, and declaring an emergency."

H. B. No. 130, "An Act to amend Section 1, Chapter 77, General Laws of the Thirty-eighth Legislature, Regular Session, providing for omission of Houston county, and declaring an emergency."

HOUSE BILL NO. 100 ON SECOND READING.

The Speaker laid before the House, as unfinished business, on its passage to engrossment,

H. B. No. 100, A bill to be entitled "An Act for the purpose of promoting the public school interests of rural schools and small towns, of aiding the people to provide adequate school facilities for the education of their children for the next two fiscal years, ending August 31, 1926, and August 31, 1927, respectively."

The bill having heretofore been read second time.

Mr. Gray offered the following amendment to the bill:

Amend House bill No. 100 by striking

out Section 12, beginning on line 33, on page 5, and ending with line 8, on page 6, and insert in lieu thereof the following:

"It shall be the duty of the county superintendent of each county in this State to personally inspect the condition of each school in his county and make such reports to the State superintendent as he may request concerning each school in his county, such reports to include the buildings, grounds, equipment and such other information as may be requested by the State superintendent. The aid herein provided for shall not be granted to any school, unless it be shown that such aid is actually needed for efficient school work and for the desired length of term. And when it is shown by the report of the county superintendent to the State superintendent that aid is needed it shall be the duty of the State superintendent and State board of education to grant said aid as under this act the school reported on will be entitled to; "Provided further, That visiting of schools by the State superintendent of the rural supervisors shall not be made at the expense of the State school fund or any other fund unless requested by the county school trustees and the county superintendent acting together."

Question—Shall the amendment be adopted?

INVITATION FROM SCHOOL FOR THE BLIND.

Speaker Satterwhite stated that Miss Dorothy Thomas, daughter of Hon. Chas. G. Thomas, ex-Speaker of the House of Representatives, was present in the Hall and desired to extend an invitation to the members of the House to attend an entertainment at the School for the Blind.

Speaker Satterwhite then presented Miss Thomas to the House, who extended an invitation to the members to be present at an entertainment to be given Thursday evening, February 19, at the School for the Blind.

Superintendent Brown of the School for the Blind also extended an invitation to the members of the House.

On motion of Mr. McFarlane the invitation was accepted unanimously.

HOUSE BILL NO. 281 ON SECOND READING.

The Speaker laid before the House, as a special order for this hour, on its second reading and passage to engrossment,

H. B. No. 281, A bill to be entitled

"An Act to provide for the inspection and standardization of junior colleges, teachers colleges, colleges and universities of the first class; prescribing fees therefor; providing fees to be paid by teachers securing certificates based on work done in such institutions; repealing all laws in conflict herewith, and declaring an emergency."

The bill was read second time.

Mr. Brown offered the following amendment to the bill:

Amend House bill No. 281 by striking out all of Section 1 and all of Section 2 down to the word "each" in line 23.

On motion of Mr. Boggs the amendment was tabled.

House bill No. 281 was then passed to engrossment.

HOUSE BILL NO. 281 ON THIRD READING.

Mr. Smith of Nueces moved that the constitutional rule requiring bills to be read on three several days be suspended and that House bill No. 281 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—100.

Acker.	Farrar.
Alexander	Faulk.
of Bastrop.	Fields.
Amsler.	Finlay.
Atkinson.	Florence.
Avis.	Frnka.
Baker of Orange.	Gray.
Baker of Panola.	Hall.
Barker.	Harper.
Barron.	High.
Bean.	Hollowell.
Bedford.	Hoskins.
Bird.	Jacks.
Boggs.	Johnson.
Bonham.	Jordan.
Brown.	Justice.
Cade.	Kenyon.
Carter.	Kinnear.
Coffey.	Kittrell.
Conway.	Laird.
Coody.	Loftin.
Covey.	McDonald.
Cox of Lamar.	McDougald.
Dale.	McFarlane.
Daniels.	McGill.
Davis of Dallas.	McNatt.
Davis of Wood.	Merritt.
Dinkle.	Moore.
Downs.	Nicholson.
Dunlap.	Pavlica.
Dunn of Falls.	Pearce.
Dunn of Hopkins.	Perdue.
Durham.	Petsch.
Enderby.	Pool.

Pope.	Stell.
Powell.	Stevens.
Raymer.	Storey.
Renfro.	Stout.
Rice.	Strong.
Robinson.	Taylor.
Rogers.	Thompson.
Rowland.	Veatch.
Sanford.	Walker.
Shearer.	Webb.
Sheats.	Wells.
Simmons.	Westbrook.
Simpson.	Wester.
Sinks.	Williamson.
Smith of Nueces.	Wilson.
Smyth.	Young.
Stautzenberger.	

Nays—5.

Albritton.	McKean.
Bartlett.	Sparks.
Hagaman.	

Present—Not Voting.

Jasper.	Mankin.
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Absent.

Bateman.	Low.
Blount.	Masterson.
Bobbitt.	McBride.
Chitwood.	Parish.
Cox of Navarro.	Poage.
Cummings.	Purl.
Donnell.	Rawlins.
Foster.	Runge.
Graves.	Smith of Travis.
Harman.	Stevenson.
Houston.	Teer.
Kayton.	Tomme.
Kemble.	Wade.
Lane of Hamilton.	Wallace.
Lane of Harrison.	Woodruff.
Lipscomb.	

Absent—Excused.

Alexander	Irwin.
of Limestone.	Jones.
Bryant.	King.
DeBerry.	Maxwell.
Dielmann.	Montgomery.
Hull.	Rowell.

The Speaker then laid House bill No. 281 before the House on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—102.

Acker.	Avis.
Alexander	Baker of Orange.
of Bastrop.	Baker of Panola.
Amsler.	Barker.
Atkinson.	Barron.

Bedford.	McDougald.
Bobbitt.	McFarlane.
Boggs.	McNatt.
Bonham.	Merritt.
Brown.	Moore.
Cade.	Nicholson.
Carter.	Pavlica.
Coffey.	Pearce.
Conway.	Perdue.
Covey.	Petsch.
Cox of Lamar.	Pool.
Cox of Navarro.	Pope.
Dale.	Powell.
Daniels.	Purl.
Davis of Dallas.	Rawlins.
Davis of Wood.	Raymer.
Dinkle.	Renfro.
Donnell.	Robinson.
Downs.	Rogers.
Dunlap.	Rowland.
Dunn of Falls.	Sanford.
Dunn of Hopkins.	Shearer.
Durham.	Sheats.
Enderby.	Simmons.
Farrar.	Simpson.
Faulk.	Sinks.
Fields.	Smith of Nueces.
Finlay.	Smyth.
Florence.	Stautzenberger.
Frnka.	Stell.
Gray.	Stevens.
Hall.	Storey.
Harman.	Stout.
Harper.	Strong.
High.	Taylor.
Hollowell.	Teer.
Hoskins.	Thompson.
Jacks.	Veatch.
Johnson.	Wade.
Jordan.	Walker.
Kenyon.	Webb.
Kinnear.	Wells.
Kittrell.	Westbrook.
Laird.	Wester.
Loftin.	Williamson.
Low.	Young.
McDonald.	

Nays—6.

Albritton.	Coody.
Bartlett.	Hagaman.
Bean.	Justice.

Present—Not Voting.

Bird.	Mankin.
Jasper.	

Absent.

Bateman.	Lane of Hamilton.
Blount.	Lane of Harrison.
Chitwood.	Lipscomb.
Cummings.	Masterson.
Foster.	McBride.
Graves.	McGill.
Houston.	McKean.
Kayton.	Parish.
Kemble.	Poage.

Rice.	Tomme.
Runge.	Wallace.
Smith of Travis.	Wilson.
Sparks.	Woodruff.
Stevenson.	

Absent—Excused.

Alexander	Irwin.
of Limestone.	Jones.
Bryant.	King.
DeBerry.	Maxwell.
Dielmann.	Montgomery.
Hull.	Rowell.

HOUSE BILL NO. 100 ON ENGROSSMENT.

The House resumed consideration of pending business, same being House bill No. 100, relating to the rural schools, on its passage to engrossment, with amendment by Mr. Gray pending.

(Mr. Barron in the chair.)

Mr. Wallace moved to table the amendment.

Yeas and nays were demanded, and the motion to table was lost by the following vote:

Yeas—47.

Acker.	Lipscomb.
Amsler.	McDougald.
Baker of Panola.	McGill.
Bedford.	Petsch.
Bird.	Pool.
Bobbitt.	Pope.
Boggs.	Powell.
Bonham.	Rawlins.
Brown.	Robinson.
Cade.	Sanford.
Cox of Navarro.	Shearer.
Daniels.	Simpson.
Dinkle.	Storey.
Dunn of Falls.	Strong.
Durham.	Teer.
Faulk.	Tomme.
Frnka.	Wade.
Gray.	Walker.
Hagaman.	Wallace.
Harman.	Wester.
Harper.	Wilson.
Hollowell.	Woodruff.
Jordan.	Young.

Nays—57.

Albritton.	Covey.
Atkinson.	Cox of Lamar.
Avis.	Dale.
Baker of Orange.	Davis of Wood.
Barker.	Donnell.
Bartlett.	Downs.
Bean.	Dunn of Hopkins.
Carter.	Enderby.
Coffey.	Farrar.
Conway.	Fields.
Coody.	Finlay.

Hall.	Rice.
High.	Rogers.
Hoskins.	Rowland.
Jasper.	Simmons.
Justice.	Sinks.
Kinnear.	Smyth.
Laird.	Sparks.
Mankin.	Stautzenberger.
McBride.	Stell.
McFarlane.	Stevens.
Merritt.	Stout.
Moore.	Taylor.
Nicholson.	Thompson.
Parish.	Veatch.
Pavlica.	Webb.
Pearce.	Westbrook.
Perdue.	Williamson.
Renfro.	

Present—Not Voting.

Masterson.	Sheats.
McDonald.	

Absent.

Alexander	Kenyon.
of Bastrop.	Kittrell.
Barron.	Lane of Hamilton.
Bateman.	Lane of Harrison.
Blount.	Loftin.
Chitwood.	Low.
Cummings.	McKean.
Davis of Dallas.	McNatt.
Dunlap.	Poage.
Florence.	Purl.
Foster.	Raymer.
Graves.	Runge.
Houston.	Smith of Nueces.
Jacks.	Smith of Travis.
Johnson.	Stevenson.
Kayton.	Wells.
Kemble.	

Absent—Excused.

Alexander	Irwin.
of Limestone.	Jones.
Bryant.	King.
DeBerry.	Maxwell.
Dielmann.	Montgomery.
Hull.	Rowell.

(Speaker in the chair.)

Question—Shall the amendment by Mr. Gray be adopted?

NOTICE GIVEN.

Mr. Wells gave notice that he would, on next Monday, ask to be taken up for consideration at that time House bill No. 6, which bill had heretofore been laid on the table subject to call.

RECESS.

On motion of Mr. Purl, the House, at 12 o'clock m., took recess to 3 o'clock p. m. today.

AFTERNOON SESSION.

The House met at 3 o'clock p. m. and was called to order by the Speaker.

SPECIAL ORDER SET.

On motion of Mr. Durham, House bill No. 87 was set as a special order for 11 o'clock a. m. next Tuesday.

COMMUNICATION FROM THE ATTORNEY GENERAL.

The Speaker laid before the House, and had read, the following communication:

No. 2584.

Constitutional Law—Impeachment—
Power to Vacate Impeachment
Judgment.

It is beyond the power of the Legislature to enact a statute which would pardon a person convicted upon articles of impeachment by the State Senate; a Legislative enactment purporting to cancel, remit, release and discharge disqualifications imposed by a judgment of the State Senate, acting as a court under Article 15 of the State Constitution, is void; the disqualification mentioned in Article 15, State Constitution, is constitutional in its nature and cannot be set aside by statute; Senate bill No. 252 is unconstitutional.

Attorney General's Department,
Austin, Texas, February 12, 1925.

Hon. Lee Satterwhite, Speaker of the
House of Representatives, Austin,
Texas:

Complying with the request of the House of Representatives of the Thirty-ninth Legislature, expressed in a resolution adopted February 11, 1925, this opinion is given as to the constitutionality of Senate bill No. 252, which reads as follows:

"A bill to be entitled, 'An Act granting to every person against whom any judgment of conviction has heretofore been rendered by the Senate of the State of Texas in any impeachment proceeding, a full and unconditional release of any and all acts and offenses of which any such person was so convicted under and by virtue of any such judgment, and to cancel and remit any and all punishment fixed or assessed by any such judgment of said Senate, including that of disqualification to hold any office of honor, trust or profit under the State of Texas, and declaring an emergency.'

"Be it enacted by the Legislature of the State of Texas:

"Section 1. That every person against whom any judgment of conviction has heretofore been rendered by the Senate of the State of Texas in any impeachment case, shall be and is hereby granted a full and unconditional release of any and all acts and offenses of which he was so convicted by said Senate of the State of Texas, upon any charge or proceedings of impeachment.

"Sec. 2. That any and all penalties or punishment inflicted by or resulting from any such judgment heretofore rendered by the Senate of Texas, in any such impeachment case, including any disqualification to hold any office of honor, trust or profit under said State, shall be, and the same is hereby fully cancelled, remitted, released and discharged.

"Sec. 3. Any person coming within the purview of this act may, should he so desire, apply to the Secretary of State for a copy of this act and upon such application the Secretary of State shall prepare and deliver to the applicant a copy of this act duly certified by him and shall make and preserve a record of such application, and the delivery of such certified copy, which shall become a permanent record of his office; provided that such application or delivery of a certified copy shall not be necessary in order to render this act effective, nor shall the failure of any person affected by it to make such application or receive such copy render this act invalid or inoperative as to any person coming within the purview hereof.

"Sec. 4. The fact that the relief of persons from further operation of penalties and punishments inflicted under or by judgments in impeachment cases rendered by the Senate of the State of Texas is a Christian function to be exercised by the Legislature of Texas, and there being no law now in force granting the power to give relief in such cases, creates an emergency and an imperative public necessity which authorizes the suspension of the constitutional rule requiring bills to be read on three several days in each House, and said rule shall be and the same is hereby suspended, and that this act shall take effect and be in force from and after its passage, and it is so enacted."

The inquiry of the House of Representatives as to the constitutionality of this bill may be said to raise three questions as to the power of the Legislature:

1. Does the vesting of the power to pardon by the terms of Section 11, Ar-

ticle IV, State Constitution, considered with other provisions of the Constitution, impliedly prohibit the Legislature from passing an act pardoning a conviction in an impeachment case?

2. Has the Legislature power to pass an act, which, in effect, sets aside and vacates the judgment of a court acting under the provisions of Article XV, State Constitution?

3. Has the Legislature power to cancel, remit, release and discharge the penalty of disqualification imposed by the judgment of a court of impeachment under the provisions of Section 4, Article XV, State Constitution?

I.

The proper consideration of this question requires the construction of Article IV, Section 11, State Constitution, and other provisions, and a general discussion of the powers of the State Legislature.

In the organization of our government, it is intended that there shall be three separate and distinct departments of government, and that each shall be confided to a separate body of magistracy. This is best expressed in Section 1, Article II, State Constitution, which reads as follows:

"The powers of the government of the State of Texas shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to wit: Those which are legislative to one, those which are executive to another, and those which are judicial to another; and no person or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted."

It is the purpose of that article, and the genius of this government, that the matters which are legislative shall be confided to one department of the State government, and those which are executive shall be confided to the Executive Department, and those which are judicial shall be confided to the Judicial Department. It is expressly provided that "no person or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances * * * expressly permitted."

It is provided in Section 11, Article IV, State Constitution, defining the powers of the executive, that "in all criminal cases, except treason and impeachment, he shall have power, after conviction, to grant reprieves, commutation of punishment, and pardons; and under such rules

as the Legislature may prescribe, he shall have power to remit fines and forfeitures." Further provision is made that "with the advice and consent of the Senate, he may grant pardons in cases of treason, and to this end he may respite sentences therefor until the close of the succeeding session of the Legislature."

Section 11, Article IV, State Constitution, should be construed according to the established rules of constitutional construction, and within its terms, considered with other provisions of the Constitution, should be found the intent of the people as to what department of the government they desire to vest with the power of pardon.

There can be no doubt but that it was the intention of the people in the adoption of the Constitution to vest in the Governor the power to pardon, after conviction, in all cases except treason and impeachment. It is evident that they intended to vest in the Governor and the Senate the power to pardon in cases of treason. It is equally evident that they intended to fix a prohibition against the Governor granting any pardon in cases of impeachment. It may be further said that it was the clear purpose of the people to vest in the Governor the power to remit fines and forfeitures, but under such rules as the Legislature might prescribe. And it is also certain that the people intended to vest in the Legislature the power to pass such rules as they might see fit to govern the remission of fines and forfeitures.

By the terms of Section 11, the sovereign people, in the adoption of the Constitution, have vested in the legislative department of the State government two distinct powers with respect to the pardoning power. In the Senate has been vested the power to act with the Governor in the granting of pardons in cases of treason. Without the advice and concurrence of the Senate, the Governor is powerless to relieve one from a conviction of treason. The remission of fines and forfeitures is entrusted to the Governor, but under such rules as the Legislature may prescribe. In the Legislature has been vested the power to lay down rules by which fines imposed for violations of law may be remitted by the Governor.

Pardon, as used in our law, in its generic sense, means to include all of those acts of grace proceeding from the power which the people have either granted or vested with the right to ex-

tend clemency to those offending against the laws of society, and which acts of grace and mercy exempt the individual from the punishment which the law inflicts for a crime or offense which he has committed. In its generic sense, pardon includes the remission of fines.

A general and familiar rule of construction of State Constitutions is that, having defined or vested a given power in a department of the government, the people thereby reserve to themselves all other powers or prohibit the exercise of all other powers with reference to that particular subject. In *Taylor vs. Goodrich*, 40 S. W., 523, it is thus expressed:

"It is a familiar rule of construction in this State, that when the Constitution defines the powers of an officer, he is confined to the powers enumerated, and the express mention of such powers negatives the existence of others."

Other authority might be cited, but the principle is of such general knowledge as to render further citation of authority unnecessary. The rule comes from the fact that our State Constitution is an instrument naming the duties and limiting the powers of governmental agencies, as distinguished from the Constitution of the United States, which is a grant of power, and from the fact that the residue of power is in States or the people. The idea is most clearly expressed in *Cooley's Constitutional Limitations*, page 11, in these words:

"The government of the United States is one of enumerated powers; the National Constitution, being the instrument which specifies them, and in which authority should be found for the exercise of any power which the National government assumes to possess. In this respect, it differs from the Constitutions of the several States, which are not grants of powers to the States, but which apportion and impose restrictions upon the powers which the States inherently possess."

It may be stated as axiomatic that wherever a State Constitution vests in a department of its government a named power, that the very vesting of the power is in itself a limitation upon that department exercising any further rights in connection with that particular subject, than the power therein vested.

As particularly applied to impeachment, the Constitution inhibits the Governor from granting a pardon. The Constitution, in Article XV, provides for impeachment. In this article, the

power of impeachment is vested in the House of Representatives. The Senate is vested with the power to sit as a court of impeachment and with the power to enter judgment. Thus, it is seen that certain powers with reference to impeachment are, by the express terms of the Constitution, vested in the legislative department of the government. The Constitution vests in agencies of that department all the power with reference to impeachments, up to and including the entering of judgment, and provides penalties which the judgment may impose. This is a separate article. It is silent on the matter of pardon.

Therefore, the people, by the adoption of the Constitution, having vested in the Senate a power to act with the Chief Executive in pardoning for treason, and having vested in the Legislature the power to prescribe rules and provisions by which fines may be remitted, and having provided in the Constitution an article on impeachment, but made no provision therein for pardoning one impeached, it may be safely said, under this rule of construction, that, upon reasonable construction, the people impliedly prohibited the legislative department of our government from the exercise of any further prerogatives or rights in the granting of pardons, after conviction, than the right of the Senate to act with the Governor in pardoning treason and the power of the Legislature to make rules for remitting fines and forfeitures.

It is a familiar rule that, in the construction of constitutional provisions, they are to be construed so as to promote the objects for which they were framed, and to give effect to the intent of the framers and the people who have adopted them. To this end, the proceedings of the convention which framed the Constitution may be looked to in an effort to find the intent of the framers and the intent of the people. (*Corpus Juris*, Vol. 12, p. 711.) The people are supposed, when they adopt the Constitution submitted by the convention, to have adopted the reason and intent of the framers.

It will be found that on September 30, 1875, the committee to which had been referred the preparation of an article on the Executive Department in the new Constitution, presented their report. They submitted an article headed "Executive Department," and in this article is found Section 11, which is the same as Section 11, Article IV, as it

exists in our Constitution today, except that the words "of punishment" were added after the word "commutation" each time that word appeared in the section as submitted. (Constitutional Convention Journal, page 230.)

On October 4, 1875, Mr. Erhard offered a resolution providing that the Legislature should regulate the pardoning power and fixing provisions as to a certificate of the district clerk to petitions for pardon, and that the pardon should be signed by the Governor and Attorney General, and attested by the Secretary of State. This resolution was referred to the Committee on General Provisions. It appears that, notwithstanding the resolution offered by Mr. Erhard seeking to fix the power of regulating the granting of pardons in the Legislature, that the Constitution was adopted providing that the Governor should exercise the pardoning power.

The Convention had before it a resolution, which if embodied in the Constitution, would vest in the Legislature the power to regulate pardons, and which would, perhaps, include the power to grant pardons. The Convention rejected the idea and submitted to the people a Constitution which vested the power to grant pardons, after conviction, in the Governor. The intent thus evinced is that it was the purpose of the framers of the Constitution to vest in the Chief Executive of the State the power to grant pardons after conviction. If the people, in the adoption of the Constitution, adopted the reason and intent and purposes of their Convention, then the provisions of Article IV, Section 11, must be construed to limit the Legislature on questions of pardons to the powers therein expressly enumerated.

The courts will look to the history of the times in construing the Constitution with the view of ascertaining the objects and purposes and the condition inducing the adoption of the provision under consideration. In the adoption of the Bill of Rights in the Constitution of the United States, its framers no doubt had in mind the history of the great State trials in England, the Star Chamber and the Inquisition, which is but the chronicling of judicial and executive outrages against the liberty of citizens. They no doubt had in mind the rules that obtained in the ancient Jewish and Roman civilization. With these incidents of history in mind, they embodied in the Constitution of the United States those guarantees of liberty which are

intended to protect the citizen from the injustice of a tyrannical and despotic government. A counterpart of this Bill of Rights is found in our State Constitution. We are unwilling to assume that the men who framed the Constitution of Texas were mere borrowers from the writings of others, or anything less than great men of general information and men whose minds had been enlivened to the needs of society by an intimate knowledge of history. With the past experiences in mind, they adopted as part of our organic law those great guarantees of personal and political liberty that inure to the benefit of the proudest, and at the same time to the humblest citizen in all the great State of Texas. The well known incidents of history may have, and likely did, operate on the minds of the framers of our Constitution in lodging the power of pardon. It is probable that in framing the Constitution of the United States, its authors excepted from the pardoning power of the President the crime of impeachment, because of the history of impeachment in England. There was a time in that Kingdom when, because of favoritism, the King would shield a corrupt official from the shame and humiliation of impeachment, by executive pardon. This was attempted many times by the King to shield the wicked from the investigation and punishment of Parliament, until the Commons, in 1679, protested against a royal pardon being pleaded in bar of impeachment, and by Act of Settlement, 12 William III, c. 2, it was declared "that no pardon under the great seal of England shall be pleaded to an impeachment by the Commons in Parliament." Did this experience in England operate upon the framers of the Constitution of the United States to exempt impeachment from the pardoning power? We have been taught to believe that the Bill of Rights was brought about by considerations of history. No man can gainsay the assertion that the limitation upon the pardoning power of the President was induced by like considerations. Is it not fair to conclude that the same reasons operated on the minds of our people in Texas, and that it was their purpose to expressly except from the power of pardon the offense of impeachment? When we consider that many thousands of our citizens live out their lives without being given honors of office, and that the extreme punishment imposed for impeachment is removal from office and disqualification from further holding office; that neither life, liberty nor prop-

erty are affected; it does not seem improbable that the denial of the privilege to hold office was deemed commensurate punishment for impeachable offenses, and that the intent was to prohibit the granting of pardon.

Our governmental institutions are largely the result of experiences in matters of government in England, and are peculiarly shaped after the ideals of government which until recently belonged almost exclusively to the mind of citizens of this Nation. The Constitution of Texas follows the wisdom of the Constitution of the United States.

The power of pardon as it exists in our country finds its history and origin in the power as exercised in England. The King of England granted pardons as the sovereign, and as an act of sovereignty.

In the Constitution of the United States, and in the constitutions of most States in the Union, there is contained a provision which fixes the power of pardon in the executive with an express prohibition against pardon of impeachment. Courts look to like provisions in the constitutions of other States and to the United States Constitution, in the construction of our own Constitution.

In the adoption of the Constitution of the United States, the power, such as was granted by the States in matters of pardon, was lodged in the chief executive of the Nation. No power of pardon is enumerated in the powers granted by these States to Congress, the legislative department of the Federal government. And the Federal government has only the powers enumerated in the Constitution of the United States. The President has power to grant pardons "for offenses against the United States, *except in cases of impeachment.*" (Const. U. S., Art. II, Sec. 3.) The States in the gift of power did not extend their grant of sovereign powers to the right to pardon in cases of impeachment. It logically follows, under the rules of construction, that no power to pardon impeachments exists in any department of the Federal government; but that the power is reserved.

If that power was withheld from the Federal government, notwithstanding the fact that on impeachment a judgment of the National Senate, sitting as a court of impeachment, may impose a penalty disqualifying one from holding office (U. S. Const., Art. I, Sec. 3), and taking into consideration the likeness in the wording in the Constitution of Texas, it seems a logical inference that the people of Texas intended that impeachment should know no pardon at

the hands of the agencies created by the Constitution.

The question may be approached from a different angle. The statement is frequently made that the Legislature, coming fresh from the people, and being the representative of sovereignty, has the power to do anything which is not violative of some express prohibition of the Constitution, or of such prohibition of the Constitution as may, by a fair and proper interpretation, be said to be reasonably included within such prohibition. This statement is not literally correct. It may be granted that the Legislature is empowered to do anything of a legislative nature which is not expressly prohibited, or by fair and proper interpretation of the Constitution, impliedly prohibited. The position that the Legislature is any more the agency of the people than the other departments of the government is not consonant with the theory of our government. It was intended that we should have three separate and distinct departments of government; that each should be supreme in its sphere, and that they should be co-ordinate and independent, except in those cases where two of them were, by the express terms of the Constitution, called upon to act jointly in the exercise of some function of government. The frame of our government, the vesting of the legislative power itself, the organization of the executive authority, the erection of courts of justice, all create implied limitations upon the law making authority as strong as though a negative was expressed in each instance. It may, therefore, be said that this power of the Legislature, except where expressly or impliedly provided to the contrary, is limited to the exercise of functions properly belonging to that department of our government.

There is respectable authority that the power to pardon is an executive function.

"Is any legislative act needed to aid the President, or can any legislative act restrict him in the exercise of his functions? Plainly not. Pardoning is clearly a kind of executing, not of making laws. As far as authority is conferred upon the chief magistrate, it can neither be extended nor limited by Congress. A statute passed to give construction to the Constitution and confining its operation to particular classes of pardons would be a palpable usurpation of the judicial function." Pomeroy's Constitutional Law, Sec. 695, page 583.

Again,

"A pardon is confessedly a step in the

execution of laws, and the American Congress, unlike the British Parliament, has no executive function. It may apportion punishment; it may enact that punishment shall be conditional; but when it has once decided on a penalty, its authority would seem to be ended. Remission is a proper act of the President, and is not legislative." Pomeroy's Constitutional Law, page 583.

"Can the Legislature bestow upon any officer other than the Governor the power to grant an unconditional pardon?"

* * * Although questions have sometimes arisen whether a power properly belonged to one department of the government or another, yet there is no contrariety of opinion as to which department of the government the power to pardon properly appertains. All unite in pronouncing it an executive function. So thought the framers of our Constitution, and accordingly vested it in the chief executive officer of the State." 41 L. R. A. (N. S.), 1144.

"Since it is a principle of constitutional law that each of the great departments of government, viz., the executive, the legislative, and the judicial, shall in its sphere be supreme and independent of the others, and that a grant of general powers to one department constitutes an implied exclusion of the other departments from the exercise of those powers, it is the prevailing weight of judicial opinion that a grant of the pardoning power by the Constitution upon the executive department of either the State or Federal government precludes the legislative department of that government from exercising or controlling that power. In other words, that the pardoning power is solely an executive function, and cannot be exercised, limited or impaired by the Legislature." 24 Am. & Eng. Encyc. of Law, 557.

In *U. S. vs. Klein*, 13 Wall., 128, the intimation is found that the legislative department has no pardoning powers, even though the President cannot pardon impeached persons.

"It is the intention of the Constitution that each of the great co-ordinate departments of government,—the legislative, executive and the judicial,—shall be in its sphere independent of the others. To the executive alone belongs the pardoning power; and it is granted without limitation. Pardon includes amnesty."

In *U. S. vs. Wilson*, 7 Peters, 159, Chief Justice Marshall said:

"A pardon is an act of grace proceeding from the power intrusted with the execution of law, which exempts the

individual from the punishment which the law inflicts for a crime he has committed."

This definition has been frequently quoted, and seems to be a standard definition of the word in its generic sense as used in the law.

As to the reason for vesting the power in the one intrusted with the execution of the laws, Story on the Constitution, Vol. 2, Sec. 1498, says:

"The reason in favor of vesting it (the pardoning power) in the executive department may thus be stated. A sense of responsibility is always strongest in proportion as it is undivided. A single person would, therefore, be most ready to attend to the force of those motives which might plead for a mitigation of the rigor of the law; and the least apt to yield to considerations which were calculated to shelter a fit object of its vengeance. The consciousness that the life or happiness of an offender was exclusively within his discretion, would inspire scrupulousness and caution; and the dread of being accused of weakness or connivance would beget circumspection of a different sort. On the other hand, as men generally derive confidence from numbers, a large assembly might naturally encourage each other in acts of obduracy, as no one would feel much apprehension of public censure."

This seems to have been taken by the author of this standard text on the Constitution, from the *Federalist*, No. 74.

The Legislature is authorized, under the Constitution, to make, amend and repeal laws. That power is to be employed in the providing of rules of conduct for the government of society, within the limitation contained in the Constitution.

Texas has never expressly vested this power to pardon elsewhere than in the executive, except in one instance. In the Provisional Constitution of the Republic of Texas, of 1835, it was expressly conferred upon the law making body. The omission of this provision or a similar provision from all subsequent Constitutions, under the proper rules of constitutional construction, must be taken as evidence of an intent to impliedly prohibit the exercise of this power by the Legislature.

Upon the authority that the power to pardon, historically has been exercised by the executive; that it is by the better weight of legal authority regarded as an executive function, and because of the reasons for lodging the power in the executive, we are constrained, under the terms of the Constitution of Texas, to conclude that the

Legislature is prohibited from exercising this function of government.

II.

In the matter of impeachment, the Constitution provides the mode of impeachment. In this matter, the Constitution of Texas follows the provisions in the Constitution of the United States, and takes the existing institution of the Senate as the forum for trial. This procedure, apparently, was taken in large measure from the existing precedents and procedure of the English Parliament. The hearing before the Senate is in the nature of a trial,—a judicial proceeding. The weight of authority seems to regard the hearing as a trial in the form of a judicial proceeding. The Senate, for this purpose, becomes a court. Our Constitution (Article XV, Section 2) provides that "The impeachment of the Governor * * * shall be tried by the Senate." Article XV, Section 3, Constitution of Texas, provides that "when the Senate is sitting as a court of impeachment, the Senators shall be on oath, or affirmation, impartially to try the party impeached; and no person shall be convicted without the concurrence of two-thirds of the Senators present." It further makes provision for the penalty to be imposed by the "*judgment in cases of impeachment*." The power to try and convict a citizen and enter a judgment is of the very essence of judicial power; the tribunal is in the very nature of things a court, and the determination of the issues presented is a judgment.

"The Senate, when organized for the trial of an impeachment, is a court of exclusive, original and final jurisdiction; its judgments cannot be reversed by any other tribunal." 15 Am. & Eng. Encyc. of Law, 1064.

"The subject of impeachment, like the power of the Legislature to punish for contempt, has a different character from subjects requiring the action of both branches of the Legislature and the Governor in order that laws may be enacted. The power conferred upon the assembly to impeach the Governor is a judicial power." *People vs. Hays*, 143 N. Y. Supp., 325.

"The accusing power is the House; the judicial power is the Senate." Tucker on the Constitution, Vol. 1, page 409.

"The trial of impeachment is peculiarly a judicial act, yet the Senate is the only court for that purpose." *Pomeroy's Constitutional Law*, page 118.

The argument of Judge Benjamin R. Curtis, given on the impeachment trial of Andrew Johnson, Vol. 1, page 409, is reasonable and persuasive authority, and clearly states the theory that the Senate in the trial of impeachment cases acts as a court. It is quoted:

"I desire to refer to the sixty-fourth number of the *Federalist*, which is found in Dawson's Edition, on page 453: 'The remaining powers which the plan of the Convention allots to the Senate, in a distinct capacity, are comprised in their participation with the executive in the appointment to offices, and in their judicial character as a court for the trial of impeachments, as in the business of appointments the executive will be the principal agent, the provisions relating to it will most properly be discussed in the examination of that department. We will therefore conclude this head with a view of the judicial character of the Senate.'

"And then it is discussed. The next position to which I desire the attention of the Senate is, that there is enough written in the Constitution to prove that this is a court in which a judicial trial is now being carried on. 'The Senate of the United States shall have the sole power to try all impeachments.' 'When the President is tried, the Chief Justice shall preside.' 'The trial of all crimes, except in cases of impeachment shall be by jury.' This, then, is the trial of a crime. 'You are triers, presided over by the Chief Justice of the United States in this particular case, and that on the express words of the Constitution. There is also, according to its express words, to be an acquittal or conviction on this trial for a crime.' No person shall be convicted without the concurrence of two-thirds of the members present.' There is also to be a judgment in case there shall be a conviction.

"Here, then, there is the trial of a crime, a trial by a tribunal designated by the Constitution in place of court and jury; a conviction, if guilt is proved; a judgment on that conviction; a punishment inflicted by the judgment for a crime; and this on the express terms of the Constitution itself."

This argument was founded on provisions in the Constitution of the United States which have heretofore been pointed out as similar to the provisions of the Constitution of Texas with reference to the trial of impeachment cases.

Likely, the latest expression of any

court or text-writer on the character of the Senate, when sitting in an impeachment trial, is by the Supreme Court of Texas in the case of *Ferguson vs. Maddox*, 263 S. W., 890:

"The Senate, sitting in an impeachment trial, is just as truly a court as is this court. Its jurisdiction is very limited, but such as it has is of the highest. It is original, exclusive and final. Within the scope of its constitutional authority no one may gainsay its judgment."

No provision is made for the summoning of witnesses or for the administering of oaths or affirmations to witnesses. This is inherently the power of a court, and in impeachment cases the Senate as a court has that power. No provision is made for enforcing its lawful orders, but courts must have that power to render their orders efficacious, and the Senate as a court in cases of impeachment inherently has that power. No particular rule of procedure is defined by the Constitution as binding on the Senate, but the Senate, sitting as a court of impeachment, inherently has the power to adopt its own rules of procedure. No express words of the Constitution or statutes define impeachable offenses. Apparently, we have a court without a law to enforce or construe. But the Senate, as a court of impeachment, may nevertheless convict. To this end, it has the power to determine what state of facts may constitute an impeachable offense. In this matter it is not bound by the charges made in the articles of impeachment preferred by the House. It may sustain demurrers or exceptions to the sufficiency of such charges, or hold that though the same be true, the acts alleged do not constitute an impeachable offense. It may be said that the usages and customs of the English Parliament are adopted. However this may be, the fact remains that it adopts rules, and concludes the kind and quality of conduct that warrants or justifies an impeachment.

The logical conclusion follows that, in the matter of impeachment, the sovereign people of this State by the constitutional provisions, have vested and confided in that body for the time, all attributes of sovereignty which in republics are spoken of and treated as judicial powers. The matter of determining the procedure and the law of impeachable offenses in a sense is of a legislative nature, but does not proceed from the general legislative power. The power eman-

ates from the constitutional provision fixing the tribunal for the trial of impeachments. It is not, in any sense, a part of our existing judicial department, as such, but in this matter it exercises functions of government which are judicial in their nature, because the people clearly had a purpose to effectively provide for the impeachment of officers guilty of offenses warranting removal from office. And having vested that power in the State Senate as a court, they vested in it whatever power might be necessary to accomplish the plain and evident purpose of the people.

The Legislature does not bring into existence the judgment of impeachment by a legislative act, but the court brings this judgment about by judicial proceedings and acts. It is apparent that, in so far as the proceeding is judicial, the Legislature is without power by statutory enactment to add to or take from the judgment of the court of impeachment.

The very terms of Article II, Constitution of Texas, dividing the functions of government between three departments, are sufficient to authorize the statement that the Legislature is powerless by legislative enactment to vacate or set aside judgments of the courts. There is further authority for this, with regard to impeachment judgments. The Constitution vests in the Legislature, as such, only legislative functions, and in so doing it is limited to the exercise of the same. The Legislature is not concerned, as a Legislature, in the vacating of judgments proceeding from a power invested by the people with the judicial authority under the terms of the Constitution.

The provisions of Senate bill No. 252 attempt by legislative enactment to vacate a judgment. Section 2 of the bill reads:

"Sec. 2. That any and all penalties or punishment inflicted by or resulting from any such judgment heretofore rendered by the Senate of Texas, in any such impeachment case, including any disqualification to hold any office of honor, trust or profit under said State, shall be, and the same is hereby fully cancelled, remitted, released and discharged."

This provision would cancel, remit, release and discharge a judgment resulting from a judicial investigation and finding of facts, a judicial determination of principles of law, and a judicial application of the facts to the principles of law, and this all included in the judgment. No such authority exists in the Legislature.

III.

In addition to what has been said above, we are of the opinion that the impeachment article (Article XV, State Constitution) is a restriction on the power of the Legislature to enact such a law. The article is separate and distinct, and is competent within itself. Its terms authorize a judgment of removal from office, and a disqualification from holding any office of honor, profit or trust under this State. The finding of guilt of the acts charged in the articles of impeachment would, from the finding itself, and the entering of judgment thereon, carry with it removal from office, according to the weight of authority. It could not be urged with any degree of force that the Legislature could, immediately following the finding of guilt and the entering of judgment by a court of impeachment adjudging the respondent guilty, meet and pass a statute restoring the ousted official. Such a statute would contravene the evident intent of the Constitution. It would destroy the consequences of the finding of fact and the entering of the judgment, a consequence which the Constitution fixes as the result of such finding and judgment.

The better weight of authority seems to have it that the provisions for disqualification from holding office is a penalty which the court of impeachment, in its discretion, may or may not impose. The court has an option in the fixing of this penalty. If the court determines to enter a judgment disqualifying a person from further holding any office of honor, profit or trust under this State, it does so without the aid or assistance or action of the Legislature. The status of the person against whom the judgment is entered, springs as a constitutional disqualification, brought about by a judgment entered under authority of the Constitution. The provision is not self-functioning, but when brought into operation by the judgment, the disqualification is of a constitutional character. The provision could not be given effect if it should be held that the Legislature may, by statute, set aside a judgment or destroy its effect. The power vested in a court of impeachment could not be exercised if the Legislature is at liberty to enact a statute setting aside and voiding the judgment.

A law-making body, under our system of government, may pass laws upon subjects within its authority, defining rights and duties. After the judgment is entered, it is no longer a law making function to set aside such judgment.

This, then, is not within the proper legislative province. The Legislature could not provide a tribunal for the trial of impeachments, for the Constitution has made that provision. The Legislature could not provide by statute for the penalty upon conviction, for the Constitution has fixed the penalty. When the penalty of disqualification has been imposed, such is done in the exercise of a constitutional right by the court of impeachment, and the Legislature cannot transcend its power to remove the effects of the judgment or annul the penalty.

It is fundamental that the Legislature cannot remove the disqualification from holding office by reason of dueling, fixed by Article XVI, Section 4, of the State Constitution. In impeachment, the Constitution imposes the disqualification upon the court's entering the judgment, and it is then beyond the Legislature's power to remove it.

There is no established precedent in a case of this character, and so far as we have been able to find, no case adjudicates the question. Our conclusions are based upon what we believe to be fundamental principles of law.

You are, therefore, respectfully advised that the measure inquired about in the resolution of the House of Representatives, is unconstitutional and void, and would not remove the disqualification resting upon any person against whom such a judgment had been entered by a court of impeachment.

In our consideration of the question presented, we are indebted to a number of very able lawyers who have contributed briefs and citations of authorities supporting one side of the question or the other. We have given all the more careful consideration to the conclusions expressed herein, because the bill in question has already been passed in the Senate, where it was advocated by eminent attorneys for whose judgment on questions of law we entertain the utmost respect. However, from our research on the question, we believe that reason and logic lead against all resistance to the conclusion that the enactment of the proposed bill is beyond the authority of the Legislature of this State.

Respectfully submitted,
DAN MOODY,
Attorney General of Texas.

This opinion has been considered in conference, unanimously approved and is now ordered recorded.

DAN MOODY,
Attorney General of Texas.

On motion of Mr. McFarlane, the communication was ordered printed in the Journal.

On motion of Mr. Wade, 250 extra copies of today's Journal were ordered printed.

MESSAGE FROM THE SENATE.

Senate Chamber,
Austin, Texas, February 13, 1925.
Hon. Lee Satterwhite, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has passed

S. B. No. 94, A bill to be entitled "An Act authorizing legislative bodies of incorporated cities and towns to provide for the promotion of health, safety, morals and general welfare of the community; to regulate and restrict the size, kind and character of buildings, the dimensions of lots, yards, etc., the density of population and the location and use of buildings for trade, industries, residences, or other purposes; providing that said municipal legislative bodies may subdivide the municipality into districts to carry out the purposes of this act, and within such districts to regulate construction and alteration of buildings, and the use of land therein contained, to facilitate the adequate provision of transportation, water, sewerage, schools and parks, and to promote the health and general welfare; providing the method of procedure whereby such legislative bodies shall establish regulations and restrictions to carry out the purpose of this act; providing the manner and method of making changes in such regulations and restrictions; providing for the creation of a zoning commission and defining its powers and duties; prescribing the remedy to be pursued in case of violation of this act or any ordinance or regulation made under authority conferred thereby; describing the manner of construing this act with relation to other laws, ordinances and regulations; providing for the repeal of laws or parts of laws in conflict herewith, and declaring an emergency."

S. B. No. 74, A bill to be entitled "An Act to provide for the construction and maintenance of a State Highway System under the direct control of the State Highway Department and with appropriations out of the State Highway fund; authorizing the commissioners court of any county to grant aid

for the improvement by the State Highway Department or any section or sections of said highway system located in said county; regulating the manner of paying such aid; regulating the making of contracts by the State Highway Department for the improvement of said highway system; authorizing the condemnation of materials to be used in the improvement of a State highway and of land for rights of way; declaring the invalidity of any provision of this act shall not affect the validity of any other provision; repealing all laws and parts of laws in conflict with this act, and declaring an emergency."

S. B. No. 150, A bill to be entitled "An Act preventing speculation by public printers, and to prevent public printers from reproducing and disposing of matter printed under public contract and profiting thereby without the consent of the State; defining the necessary offenses and fixing the penalty, and declaring an emergency."

Refused to concur in House amendments to Senate bill No. 3 and requests the appointment of a Free Conference Committee by a vote of 19 ayes, 4 nays.

The following are appointed as conferees on the part of the Senate: Senators Wood, Real, C. C. Hardin, Price and Wirtz.

Respectfully,
MORRIS C. HANKINS,
Assistant Secretary of the Senate.

HOUSE BILL NO. 100 ON ENGROSSMENT.

The House resumed consideration of pending business, same being House bill No. 100, relating to the rural schools of Texas, on its passage to engrossment, with amendment by Mr. Gray pending.

Mr. Simpson moved the previous question on the pending amendment, and the main question was ordered.

Question recurring on the amendment, yeas and nays were demanded.

The amendment was lost by the following vote:

Yeas—44.

Albritton.	Davis of Dallas.
Atkinson.	Davis of Wood.
Avis.	Downs.
Barker.	Enderby.
Bean.	Farrar.
Cade.	Fields.
Carter.	Florence.
Coffey.	Gray.
Coody.	Hall.
Covey.	Hollowell.
Cummings.	Hoskins.

Justice.	Shearer.
Kinnear.	Simmons.
Loftin.	Stevens.
Low.	Stout.
McBride.	Strong.
Merritt.	Taylor.
Parish.	Thompson.
Pavlica.	Veatch.
Pearce.	Webb.
Poage.	Wester.
Rice.	Williamson.

Nays—58.

Acker.	McDougald.
Alexander	McFarlane.
of Bastrop.	McGill.
Amsler.	Moore.
Baker of Orange.	Nicholson.
Baker of Panola.	Perdue.
Barron.	Petsch.
Bartlett.	Pool.
Bedford.	Pope.
Boggs.	Powell.
Bonham.	Rawlins.
Brown.	Raymer.
Conway.	Robinson.
Cox of Lamar.	Rogers.
Dale.	Rowland.
Donnell.	Runge.
Dunlap.	Sheats.
Dunn of Falls.	Simpson.
Dunn of Hopkins.	Sinks.
Durham.	Smith of Nueces.
Finlay.	Smith of Travis.
Harman.	Stautzenberger.
Harper.	Stell.
High.	Tomme.
Jordan.	Wade.
Kayton.	Walker.
Kenyon.	Wallace.
Lipscomb.	Westbrook.
Mankin.	Wilson.
Masterson.	Young.

Present—Not Voting.

Jacks.	Jasper.
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Absent.

Bateman.	Laird.
Bird.	Lane of Hamilton.
Blount.	Lane of Harrison.
Bobbitt.	McDonald.
Chitwood.	McKean.
Cox of Navarro.	McNatt.
Daniels.	Purl.
Dinkle.	Renfro.
Faulk.	Sanford.
Foster.	Smyth.
Ernka.	Sparks.
Graves.	Stevenson.
Hagaman.	Storey.
Houston.	Teer.
Johnson.	Wells.
Kemble.	Woodruff.
Kittrell.	

Absent—Excused.

Alexander	Irwin.
of Limestone.	Jones.
Bryant.	King.
DeBerry.	Maxwell.
Dielmann.	Montgomery.
Hull.	Rowell.

(Mr. Hall in the chair.)

Mr. Barron offered the following amendment to the bill:

Amend House bill No. 100 by inserting in page 4, line 8, after the word "school," the following: "Or to any school in the county or a county line district school that has a higher grade or grades than the school in the district where the pupil resides."

The amendment was adopted.

(Speaker in the chair.)

Mr. Westbrook offered the following amendment to the bill:

Amend House bill No. 100, page 4, line 21, by striking out the following: "Only districts that are levying and collecting a local tax of not less than seventy-five cents on the hundred dollars valuation are eligible for this special aid."

The amendment was lost.

Mr. Woodruff offered the following amendment to the bill:

Amend House bill No. 100 by striking out sentence beginning line 7, page 4, to end of sentence and insert: "Such school pupils may be sent to any State classified school in this State."

On motion of Mr. Purl, the amendment was tabled.

Mr. Stell offered the following amendment to the bill:

Amend House bill No. 100, page 2, line 33, by striking out "seventy-five" and insert in lieu thereof the word "fifty."

Question recurring on the amendment, yeas and nays were demanded.

The amendment was lost by the following vote:

Yeas—41.

Albritton.	Florence.
Atkinson.	Harper.
Baker of Orange.	Hollowell.
Barker.	Hoskins.
Bean.	Jacks.
Boggs.	Kinnear.
Coffey.	Lipscomb.
Coody.	McBride.
Cox of Lamar.	Merritt.
Davis of Wood.	Moore.
Donnell.	Pavlica.
Downs.	Perdue.
Dunn of Hopkins.	Pool.
Farrar.	Purl.
Fields.	Rice.

Sanford.	Thompson.
Simmons.	Veatch.
Stell.	Wade.
Stout.	Webb.
Taylor.	Westbrook.

Nays—56.

Acker.	Mankin.
Alexander	Masterson.
of Bastrop.	McFarlane.
Barron.	McGill.
Bartlett.	McNatt.
Bedford.	Parish.
Bobbitt.	Pearce.
Bonham.	Petsch.
Brown.	Poage.
Cade.	Pope.
Conway.	Powell.
Covey.	Raymer.
Cummings.	Robinson.
Dale.	Rogers.
Daniels.	Rowland.
Dinkle.	Runge.
Dunn of Falls.	Sheats.
Enderby.	Simpson.
Faulk.	Sinks.
Finlay.	Smith of Travis.
Gray.	Smyth.
Hagaman.	Stautzenberger.
High.	Strong.
Jasper.	Tomme.
Jordan.	Wallace.
Kayton.	Wester.
Kittrell.	Woodruff.
Laird.	Young.
Loftin.	

Present—Not Voting.

Baker of Panola.	Shearer.
Carter.	Smith of Nueces.
McDonald.	Storey.
Nicholson.	Walker.
Renfro.	

Absent.

Amsler.	Justice.
Avis.	Kemble.
Bateman.	Kenyon.
Bird.	Lane of Hamilton.
Blount.	Lane of Harrison.
Chitwood.	Low.
Cox of Navarro.	McDougald.
Davis of Dallas.	McKean.
Dunlap.	Rawlins.
Durham.	Sparks.
Foster.	Stevens.
Frnka.	Stevenson.
Graves.	Teer.
Hall.	Wells.
Harman.	Williamson.
Houston.	Wilson.
Johnson.	

Absent—Excused.

Alexander	DeBerry.
of Limestone.	Dielmann.
Bryant.	Hull.

Irwin.	Maxwell.
Jones.	Montgomery.
King.	Rowell.

Mr. Covey offered the following amendment to the bill:

Amend House bill No. 100, page 4, line 3, by striking out "\$500,000" and substituting "\$100,000."

Signed—Covey, Purl.

(Mr. Hall in the chair.)

Mr. Baker of Panola moved the previous question on the pending amendment and the bill, and the motion was not seconded.

Question recurring on the amendment by Mr. Covey, it was lost.

Mr. Brown offered the following (committee) amendment to the bill:

Amend Section 2 by adding thereto the following:

"Provided that the State Superintendent of Public Instruction may grant aid to school districts of not over one thousand scholastic population where the value of the property owned by the State in such district exceeds thirty per cent of the assessed value of the taxable property in such district; provided said district is levying and collecting annually a dollar tax for school purposes; provided further that the total amount allowed by the State Superintendent of Public Instruction throughout the State for school districts having scholastics over one thousand as herein provided shall not exceed in any one year more than twenty-five thousand dollars (\$25,000); provided further that no such district shall receive a greater amount of aid than such district would receive from taxation were the State's property within such district privately owned, and provided further that no such district herein referred to shall receive a greater amount than two thousand dollars (\$2000) for any one scholastic year from this rural aid fund."

Mr. Brown offered the following amendment to the (committee) amendment:

Amend (committee) amendment to House bill No. 100, page 7, line 11, between "scholastic" and "over" insert "of not."

The amendment to the (committee) amendment was adopted.

On motion of Mr. Finlay, the (committee) amendment as amended was tabled.

Mr. Bedford offered the following amendment to the bill:

Amend House bill No. 100, page 4, Section 6, line 10, by striking out "high"

where it appears in that line and insert in lieu thereof the word "higher" and in line 15 strike out the word "high" and insert the word "higher," and in line 19 strike out the word "high" used the second time and insert the word "higher."

The amendment was lost.

Mr. Gray offered the following amendment to the bill:

Amend House bill No. 100, on page 5, by adding to line 11 the words, "or where a suitable building has before the consolidation of said districts been erected for school purposes, and said school building being used for school purposes."

The amendment was lost.

Mr. Wallace moved to reconsider the vote by which the amendment by Mr. Bedford was lost.

The motion to reconsider prevailed.

Question then recurring on the amendment by Mr. Bedford, it was adopted.

Mr. Finlay moved the previous question on the passage of the bill to engrossment, and the main question was ordered.

(Speaker in the chair.)

Mr. Perdue, by unanimous consent, offered the following amendment to the bill:

Amend House bill No. 100 by striking out "seven" before the word "dollars" in line 9, page 4, and insert in lieu thereof the word "four."

The amendment was adopted.

Question then recurring on the engrossment of the bill, yeas and nays were demanded.

House bill No. 100 was then passed to engrossment by the following vote:

Yeas—90.

Acker.	Dinkle.
Alexander	Downs.
of Bastrop.	Dunlap.
Amsler.	Dunn of Falls.
Atkinson.	Durham.
Baker of Orange.	Enderby.
Baker of Panola.	Farrar.
Barron.	Faulk.
Bedford.	Finlay.
Bird.	Gray.
Blount.	Hagaman.
Boggs.	Harman.
Bonham.	Harper.
Brown.	High.
Coffey.	Hoskins.
Conway.	Jacks.
Coody.	Jasper.
Cox of Lamar.	Jordan.
Cox of Navarro.	Laird.
Cummings.	Loftin.
Daniels.	Mankin.
Davis of Dallas.	Masterson.
Davis of Wood.	McBride.

McDonald.
McGill.
McNatt.
Moore.
Nicholson.
Parish.
Pavlica.
Pearce.
Perdue.
Petsch.
Poage.
Pool.
Pope.
Powell.
Purl.
Rawlins.
Rice.
Robinson.
Rogers.
Rowland.
Runge.
Sanford.
Sheats.

Simmons.
Simpson.
Sinks.
Smith of Nueces.
Smyth.
Sparks.
Stautzenberger.
Stell.
Stevens.
Storey.
Stout.
Strong.
Thompson.
Veatch.
Wade.
Walker.
Wallace.
Webb.
Westbrook.
Wester.
Wilson.
Woodruff.
Young.

Nays—17.

Albritton.
Avis.
Bartlett.
Bean.
Cade.
Covey.
Florence.
Hall.
Hollowell.

Kayton.
Kinnear.
Lipscomb.
McKean.
Merritt.
Shearer.
Smith of Travis.
Taylor.

Absent.

Barker.	Kemble.
Bateman.	Kenyon.
Bobbitt.	Kittrell.
Carter.	Lane of Hamilton.
Chitwood.	Lane of Harrison.
Dale.	Low.
Donnell.	McDougald.
Dunn of Hopkins.	McFarlane.
Fields.	Raymer.
Foster.	Renfro.
Frnka.	Stevenson.
Graves.	Teer.
Houston.	Tomme.
Johnson.	Wells.
Justice.	Williamson.

Absent—Excused.

Alexander	Irwin.
of Limestone.	Jones.
Bryant.	King.
DeBerry.	Maxwell.
Dielmann.	Montgomery.
Hull.	Rowell.

Reason for Vote.

I vote against House bill No. 100. While I favor rural school aid, I believe \$500,000 called for in Section 6 is more than needed for that purpose, and

I believe all of Section 9 should be taken from the bill.

COVEY.

**MOTION TO TAKE UP HOUSE
BILL NO. 100.**

Mr. Wallace moved that the constitutional rule requiring bills to be read on three several days be suspended, and that House bill No. 100 be placed on its third reading and final passage.

The motion was lost by the following vote (not receiving the necessary four-fifths vote):

Yeas—86.

Acker.	Mankin.
Alexander	Masterson.
of Bastrop.	McBride.
Amsler.	McGill.
Baker of Orange.	McNatt.
Baker of Panola.	Merritt.
Barker.	Moore.
Barron.	Nicholson.
Bean.	Parish.
Bedford.	Pearce.
Bird.	Perdue.
Boggs.	Petsch.
Bonham.	Poage.
Brown.	Pool.
Coffey.	Pope.
Conway.	Powell.
Coody.	Purl.
Cox of Lamar.	Rawlins.
Cox of Navarro.	Rice.
Daniels.	Robinson.
Davis of Dallas.	Rogers.
Dinkle.	Rowland.
Downs.	Runge.
Dunlap.	Sanford.
Dunn of Falls.	Sheats.
Dunn of Hopkins.	Simmons.
Durham.	Simpson.
Enderby.	Sinks.
Faulk.	Smith of Nueces.
Fields.	Smyth.
Finlay.	Sparks.
Gray.	Stautzenberger.
Hagaman.	Stevens.
Harman.	Storey.
Harper.	Stout.
High.	Strong.
Hoskins.	Veatch.
Jacks.	Wade.
Jasper.	Walker.
Jordan.	Wallace.
Justice.	Westbrook.
Kittrell.	Wester.
Laird.	Wilson.
Loftin.	Young.

Nays—22.

Albritton.	Covey.
Avis.	Cummings.
Bartlett.	Davis of Wood.
Cade.	Farrar.

Florence.
Hall.
Hollowell.
Kayton.
Kinnear.
Lipscomb.
McKean.

Pavlica.
Shearer.
Smith of Travis.
Stell.
Taylor.
Thompson.
Webb.

Absent.

Atkinson.
Bateman.
Blount.
Bobbitt.
Carter.
Chitwood.
Dale.
Donnell.
Foster.
Frnka.
Graves.
Houston.
Johnson.
Kemble.
Kenyon.

Lane of Hamilton.
Lane of Harrison.
Low.
McDonald.
McDougald.
McFarlane.
Raymer.
Renfro.
Stevenson.
Teer.
Tomme.
Wells.
Williamson.
Woodruff.

Absent—Excused.

Alexander
of Limestone.
Bryant.
DeBerry.
Dielmann.
Hull.

Irwin.
Jones.
King.
Maxwell.
Montgomery.
Rowell.

**CONFERENCE COMMITTEE ON SEN-
ATE BILL NO. 3.**

Mr. Petsch called up from the Speaker's table, for consideration at this time, the request of the Senate for a free conference committee on Senate bill No. 3.

The Speaker laid the request of the Senate before the House.

Question—Shall the request be granted?

Mr. Petsch moved that the request be granted.

The motion prevailed.

In accordance with the above action, the Speaker announced the appointment of the following conference committee:

Messrs. Petsch, Sanford, Storey, Wells and Young.

MESSAGE FROM THE SENATE.

Senate Chamber,
Austin, Texas, February 13, 1925.
Hon. Lee Satterwhite, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has passed

S. B. No. 208, A bill to be entitled "An Act to amend Article 4703 of Chapter 1, Title 70, and Article 5686, Chapter 2, Title 87, of the Revised Stat-

utes of Texas of 1911, relating to survival of causes of action for personal injuries and injuries resulting in death, and providing for the survival of causes of action for injuries resulting in death where the tortfeasor dies before suit is instituted, and declaring an emergency."

Respectfully,

MORRIS C. HANKINS,

Assistant Secretary of the Senate.

HOUSE BILL NO. 372 ON SECOND READING.

The Speaker laid before the House, as unfinished business, on its second reading and passage to engrossment,

H. B. No. 372, A bill to be entitled "An Act relating to conservation and reclamation districts, under and by virtue of the provision of Section 59 of Article XVI of the State Constitution, known as Levee Improvement Districts, having power and authority to reclaim lands from overflow and from rivers, creeks and streams, by system of levees, drainage and other improvements; prescribing how such districts may be created; defining their rights, powers and privileges, and the manner of their exercise; constituting such districts when created governmental agencies and bodies politic and corporate, and fixing their rights and liabilities as such; providing for the construction, maintenance and protection of works and improvements erected by them; granting to such districts the power of eminent domain; providing for the assessment, levy and collection of taxes; granting to such districts the power to issue bonds and create indebtedness to raise funds for the objects of their creation; relating to the making of contracts for construction of levees and other works of improvement and providing for the appropriation of funds in payment thereof; requiring the State Reclamation Engineer to inspect such districts and improvements under construction therein; making penal interference with or injury to the works or improvements; fixing penalties and punishments to be imposed on persons offending in those regards, as well as for building levees without lawful authority; enacting provisions necessary and incidental to the subject and purpose of this act; repealing all laws and parts of laws in conflict herewith; providing that this act shall not repeal any drainage district laws, or irrigation or water improvement district laws, and declaring an emergency."

The bill having heretofore been read second time.

Mr. Jacks offered the following amendments to the bill:

(1)

Amend House bill No. 372, page 29, by striking out all of Section 46.

Signed—Jacks, Farrar.

(2)

Amend House bill No. 372, page 15, by striking out of lines 21, 22 and 23, Section 23, the sentence, "nothing in this act shall be construed to confer any right to damages for which the district would not otherwise be liable."

Signed—Jacks, Farrar.

(3)

Amend House bill No. 372, page 33, line 13, by adding at the end of Section 52, which ends on that page, the following: "The contractor shall be required to give a corporate surety bond for the full amount of the contract price, which shall guarantee the completion of the contract as above provided, which bond shall be subject to the approval of the county judge."

Signed—Jacks, Farrar.

(4)

Amend House bill No. 372, page 35, Section 56a, lines 6, 7, 8, 9 and 10, by striking out the following words: "Less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for a period of not more than one year, or both such fine and imprisonment, and each day that such structure is maintained or caused to be maintained shall constitute a separate offense," and insert in lieu thereof the words, "exceeding one hundred dollars."

Signed—Jacks, Farrar.

(5)

Amend House bill No. 372, page 36, in Section 58, line 25, by striking out the word "minority" and insert in lieu thereof the word "majority."

Signed—Jacks, Farrar.

The amendments were severally adopted.

House bill No. 372 was then passed to engrossment.

HOUSE BILL NO. 372 ON THIRD READING.

Mr. Jacks moved that the constitutional rule requiring bills to be read on

three several days be suspended and that House bill No. 372 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—97.

Acker.	Lipscomb.
Albritton.	Mankin.
Alexander	Masterson.
of Bastrop.	McBride.
Amsler.	McDonald.
Baker of Orange.	McFarlane.
Baker of Panola.	McGill.
Barker.	McNatt.
Barron.	Moore.
Bean.	Nicholson.
Bedford.	Parish.
Boggs.	Pavlica.
Bonham.	Perdue.
Brown.	Petsch.
Cade.	Poage.
Coffey.	Pool.
Conway.	Pope.
Coody.	Powell.
Covey.	Purl.
Cox of Lamar.	Rawlins.
Cox of Navarro.	Raymer.
Cummings.	Renfro.
Daniels.	Robinson.
Davis of Wood.	Rogers.
Donnell.	Rowland.
Downs.	Runge.
Dunlap.	Sanford.
Dunn of Falls.	Shearer.
Durham.	Sheats.
Enderby.	Simmons.
Farrar.	Simpson.
Faulk.	Sinks.
Fields.	Smith of Nueces.
Finlay.	Smith of Travis.
Florence.	Smyth.
Gray.	Stautzenberger.
Hagaman.	Stell.
Harman.	Storey.
Harper.	Stout.
High.	Strong.
Hollowell.	Taylor.
Hoskins.	Thompson.
Jacks.	Veatch.
Jasper.	Wade.
Jordan.	Webb.
Justice.	Westbrook.
Kayton.	Wester.
Kinnear.	Wilson.
Kittrell.	Young.
Laird.	

Nays—7.

Atkinson.	Pearce.
Avis.	Rice.
Bartlett.	Walker.
Hall.	

Present—Not Voting.

Bird.

Absent.

Bateman.

Blount.

Bobbitt.	Lane of Harrison.
Carter.	Loftin.
Chitwood.	Low.
Dale.	McDougald.
Davis of Dallas.	McKean.
Dinkle.	Merritt.
Dunn of Hopkins.	Sparks.
Foster.	Stevens.
Frnka.	Stevenson.
Graves.	Teer.
Houston.	Tomme.
Johnson.	Wallace.
Kemble.	Wells.
Kenyon.	Williamson.
Lane of Hamilton.	Woodruff.

Absent—Excused.

Alexander	Irwin.
of Limestone.	Jones.
Bryant.	King.
DeBerry.	Maxwell.
Dielmann.	Montgomery.
Hull.	Rowell.

The Speaker then laid House bill No. 372 before the House on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—95.

Acker.	Finlay.
Albritton.	Florence.
Alexander	Gray.
of Bastrop.	Hagaman.
Amsler.	Harman.
Baker of Orange.	Harper.
Baker of Panola.	High.
Barker.	Hollowell.
Barron.	Hoskins.
Bartlett.	Jacks.
Bean.	Jordan.
Boggs.	Justice.
Bonham.	Kittrell.
Brown.	Laird.
Cade.	Lipscomb.
Coffey.	Low.
Conway.	Mankin.
Coody.	Masterson.
Covey.	McBride.
Cox of Lamar.	McFarlane.
Cox of Navarro.	McGill.
Cummings.	McNatt.
Dale.	Moore.
Daniels.	Nicholson.
Davis of Wood.	Parish.
Donnell.	Pavlica.
Downs.	Perdue.
Dunlap.	Poage.
Dunn of Falls.	Pool.
Dunn of Hopkins.	Pope.
Durham.	Powell.
Enderby.	Purl.
Farrar.	Rawlins.
Faulk.	Renfro.
Fields.	Rice.

Robinson.	Stell.
Rogers.	Storey.
Rowland.	Stout.
Sanford.	Strong.
Shearer.	Taylor.
Sheats.	Teer.
Simmons.	Thompson.
Simpson.	Veatch.
Sinks.	Wade.
Smith of Nueces.	Westbrook.
Smith of Travis.	Wester.
Smyth.	Wilson.
Sparks.	Young.
Stautzenberger.	

Nays—3.

Avis.	Webb.
Pearce.	

Present—Not Voting.

Bedford.	McDonald.
Bird.	Petsch.
Blount.	Raymer.
Hall.	Runge.
Jasper.	Tomme.
Kayton.	Walker.
Kinnear.	Wallace.

Absent.

Atkinson.	Kenyon.
Bateman.	Lane of Hamilton.
Bobbitt.	Lane of Harrison.
Carter.	Loftin.
Chitwood.	McDougald.
Davis of Dallas.	McKean.
Dinkle.	Merritt.
Foster.	Stevens.
Frnka.	Stevenson.
Graves.	Wells.
Houston.	Williamson.
Johnson.	Woodruff.
Kemble.	

Absent—Excused.

Alexander	Irwin.
of Limestone.	Jones.
Bryant.	King.
DeBerry.	Maxwell.
Dielmann.	Montgomery.
Hull.	Rowell.

HOUSE BILL NO. 291 ON SECOND
READING.

The Speaker laid before the House, as unfinished business, on its passage to engrossment,

H. B. No. 291, A bill to be entitled "An Act to authorize railroad companies to construct and operate spur or industrial tracks, and to condemn property for right of way therefor, and declaring an emergency."

The bill having heretofore been read second time.

On motion of Mr. Masterson, further

consideration of the bill was postponed until 2 o'clock p. m. next Tuesday.

NOTICES GIVEN.

Mr. Faulk gave notice that he would, on next Tuesday, call up for consideration at that time the motion to reconsider the vote by which House bill No. 4 failed to pass to engrossment.

Mr. Harman gave notice that he would, on next Tuesday, ask to be taken up for consideration at that time House joint resolution No. 6, which resolution had heretofore been laid on the table subject to call.

ADJOURNMENT.

Mr. Petsch moved that the House adjourn until 10 o'clock a. m. next Monday.

Mr. Westbrook moved that the House adjourn until 10 o'clock a. m. tomorrow.

Question first recurring on the motion of Mr. Westbrook, yeas and nays were demanded.

The motion was lost by the following vote:

Yeas—53.

Acker.	Kittrell.
Amsler.	McBride.
Avis.	McDonald.
Barker.	McFarlane.
Barron.	Merritt.
Bartlett.	Moore.
Bean.	Parish.
Bedford.	Pavlica.
Bird.	Pearce.
Boggs.	Perdue.
Bonham.	Poage.
Brown.	Renfro.
Coffey.	Rice.
Conway.	Robinson.
Davis of Wood.	Simpson.
Donnell.	Smyth.
Downs.	Stell.
Dunn of Hopkins.	Stevens.
Enderby.	Stout.
Fields.	Taylor.
Florence.	Thompson.
Gray.	Veatch.
Harper.	Walker.
High.	Wallace.
Hollowell.	Webb.
Hoskins.	Westbrook.
Jasper.	Wester.
Kinnear.	Young.

Nays—60.

Albritton.	Coody.
Alexander	Covey.
of Bastrop.	Cox of Navarro.
Atkinson.	Cummings.
Baker of Orange.	Dale.
Baker of Panola.	Daniels.
Blount.	Dunlap.
Cade.	Dunn of Falls.

Durham.	Powell.
Faulk.	Purl.
Finlay.	Rawlins.
Hagaman.	Raymer.
Hall.	Rogers.
Jacks.	Runge.
Jordan.	Sanford.
Justice.	Shearer.
Kayton.	Sheats.
Laird.	Simmons.
Lipscomb.	Sinks.
Low.	Smith of Nueces.
Mankin.	Smith of Travis.
Masterson.	Sparks.
McGill.	Stautzenberger.
McKean.	Storey.
McNatt.	Strong.
Nicholson.	Teer.
Petsch.	Tomme.
Pool.	Williamson.
Pope.	Wilson.

Present—Not Voting.

Rowland.

Absent.

Bateman.	Houston.
Bobbitt.	Johnson.
Carter.	Kemble.
Chitwood.	Kenyon.
Cox of Lamar.	Lane of Hamilton.
Davis of Dallas.	Lane of Harrison.
Dinkle.	Loftin.
Farrar.	McDougald.
Foster.	Stevenson.
Frnka.	Wade.
Graves.	Wells.
Harman.	Woodruff.

Absent—Excused.

Alexander	Irwin.
of Limestone.	Jones.
Bryant.	King.
DeBerry.	Maxwell.
Dielmann.	Montgomery.
Hull.	Rowell.

Question next recurring on the motion of Mr. Petsch, yeas and nays were demanded.

The motion prevailed by the following vote.

Yeas—68.

Albritton.	Conway.
Alexander	Coody.
of Bastrop.	Covey.
Amsler.	Cox of Navarro.
Atkinson.	Cummings.
Baker of Orange.	Dale.
Barron.	Daniels.
Bartlett.	Dunlap.
Blount.	Dunn of Falls.
Brown.	Dunn of Hopkins.
Cade.	Durham.
Coffey.	Faulk.

Finlay.	Raymer.
Hagaman.	Robinson.
Hall.	Rogers.
Harman.	Rowland.
Jacks.	Runge.
Jordan.	Sanford.
Justice.	Shearer.
Kayton.	Sheats.
Lipscomb.	Simmons.
Low.	Sinks.
Mankin.	Smith of Travis.
Masterson.	Sparks.
McGill.	Stautzenberger.
McKean.	Storey.
McNatt.	Strong.
Moore.	Teer.
Nicholson.	Tomme.
Petsch.	Wade.
Pool.	Webb.
Pope.	Wester.
Powell.	Williamson.
Purl.	Wilson.
Rawlins.	Young.

Nays—49.

Acker.	Laird.
Avis.	McBride.
Baker of Panola.	McDonald.
Barker.	McFarlane.
Bean.	Merritt.
Bedford.	Parish.
Bird.	Pavlica.
Boggs.	Pearce.
Bonham.	Perdue.
Cox of Lamar.	Poage.
Davis of Wood.	Renfro.
Donnell.	Rice.
Downs.	Simpson.
Enderby.	Smith of Nueces.
Fields.	Smyth.
Florence.	Stell.
Gray.	Stevens.
Harper.	Stout.
High.	Taylor.
Hollowell.	Thompson.
Hoskins.	Veatch.
Jasper.	Walker.
Kinnear.	Wallace.
Kittrell.	Westbrook.

Absent.

Bateman.	Johnson.
Bobbitt.	Kemble.
Carter.	Kenyon.
Chitwood.	Lane of Hamilton.
Davis of Dallas.	Lane of Harrison.
Dinkle.	Loftin.
Farrar.	McDougald.
Foster.	Stevenson.
Frnka.	Wells.
Graves.	Woodruff.
Houston.	

Absent—Excused.

Alexander	DeBerry.
of Limestone.	Dielmann.
Bryant.	Hull.

Irwin.
Jones.
King.

Maxwell.
Montgomery.
Rowell.

The House, accordingly, at 5:15 o'clock p. m., adjourned until 10 o'clock a. m. next Monday.

APPENDIX.

STANDING COMMITTEE REPORTS.

The following standing committees filed favorable reports today on bills as follows:

Highways and Motor Traffic—House bills Nos. 28, 308; Senate bill No. 218.

Criminal Jurisprudence—House bills Nos. 405, 16; Senate bills Nos. 357, 38, 154.

School Districts—House bills Nos. 413, 415.

Agriculture—House bill No. 416.

Common Carriers—Senate bill No. 51; House bill No. 435.

Public Lands and Buildings—House Bills, Nos. 383, 9.

Appropriations—House bill No. 32.

Revenue and Taxation—House bills Nos. 320, 289.

Judiciary—House bills Nos. 388, 392; Senate bills Nos. 130, 151, 124.

The following standing committees filed unfavorable reports today on bills as follows:

Common Carriers—House bills Nos. 34, 306.

Criminal Jurisprudence—Senate bill No. 69; House bill No. 341.

School Districts—House bill No. 410.

Insurance—Senate bill No. 64.

Revenue and Taxation—House bills Nos. 347, 35.

REPORT OF COMMITTEE ON CONTINGENT EXPENSES.

Austin, Texas, February 11, 1925.

Hon. Lee Satterwhite, Speaker of the House of Representatives.

Sir: Your Committee on Contingent Expenses to whom was referred the resolution authorizing payment out of the contingent expense fund of the present Legislature of refund to Hon. L. C. Stewart and Hon. B. E. Quinn, of expenses incurred by them in attending the funeral of the late Hon. J. O. Merriman, beg leave to report as follows:

That following the usual custom, Hon. R. E. Seagler, Speaker of the House of Representatives of the Thirty-eighth Legislature, appointed Messrs. Stewart and

Quinn, members of that body, to attend the funeral of Mr. Merriman, who was also a member of the House of Representatives, and the bill for expenses incurred by them was not filed in time to be paid until the Thirty-eighth Legislature was out of existence. We have the accounts properly sworn to and approved by Mr. Seagler, and we therefore recommend the adoption of the resolution.

Respectfully submitted,

DAVIS of Dallas, Chairman.

REPORTS OF COMMITTEE ON ENGROSSED BILLS.

Committee Room,

Austin, Texas, February 13, 1925.

Hon. Lee Satterwhite, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

H. B. No. 382, A bill to be entitled "An Act making appropriations to pay the salaries of officers and employees of certain eleemosynary institutions of the State, and other expenses of maintaining and conducting them for the two fiscal years beginning September 1, 1925, and ending August 31, 1927, as follows, to-wit: Confederate Woman's Home; State Confederate Home; State Colony for Feeble-Minded; Deaf, Dumb and Blind Institute for Colored Youths; East Texas Hospital for the Insane; State Epileptic Colony; Girls' Training School; Home for Dependent and Neglected Children; North Texas Hospital for Insane; Northwest Texas Hospital for Insane; Southwestern Insane Asylum; State Juvenile Training School; State Lunatic Asylum; State Pasteur Institute; State Lunatic Asylum Annex; State Orphans' Home; State Tuberculosis Sanatorium; State Hospital for Crippled and Deformed Children, and declaring an emergency,"

And find the same correctly engrossed.

ROWELL, Chairman.

Committee Room,

Austin, Texas, February 12, 1925.

Hon. Lee Satterwhite, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

H. B. No. 267, A bill to be entitled "An Act creating and incorporating the Draw Independent School District in Lynn county, Texas, out of territory now comprising the Draw Common

School District No. 8, in Lynn county, Texas; defining the boundaries thereof; providing for a board of trustees thereof; authorizing such board of trustees to levy, assess and collect taxes for maintenance and building purposes, and to issue bonds therefor; providing for an assessor and collector of taxes and a board of equalization for said district; providing for the validation of all outstanding obligations and indebtedness of the said Draw Common School District No. 8 and the assumption of all such obligations and indebtedness by the Draw Independent School District; validating and continuing in force all taxes and bonds that are now in force in said district; providing that the title to all property in said district be divested out of the Draw Common School District No. 8 and vested in Draw Independent School District as created by this act; providing for the election and terms of office of the trustees of said district and filling vacancies on said board, providing for a seal for said district; providing that said trustees shall be governed by the general laws of Texas in all matters where this act is silent; repealing all laws and parts of laws in conflict herewith; providing that invalidation by the courts of any portion of this act shall not invalidate any remaining portions, and declaring an emergency,"

And find the same correctly engrossed.

ROWELL, Chairman.

REPORTS OF COMMITTEE ON ENROLLED BILLS.

Committee Room,

Austin, Texas, February 13, 1925.

Hon. Lee Satterwhite, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 2, "An Act abolishing the Markets and Warehouse Department and the Weights and Measures Department, conferring all authority, powers, duties, functions, rights and liabilities of the Commissioner of Markets and Warehouses and of said Markets and Warehouses and of said Markets and Weights and Measures Department upon the Commissioner of Agriculture; abolishing the board, consisting of the Governor, Commissioner of Agriculture and the Commissioner of Insurance and Banking, created by Chapter 5, General Laws of the Second Called Session of the Thirty-third Legislature, and vesting the powers and duties of said board in the Commissioner of Agriculture; conferring the

powers and duties of the Banking and Insurance Commissioner, relative to warehouses, upon the Commissioner of Agriculture, except such as are conferred by Chapter 3, General Laws, Second Called Session of the Thirty-third Legislature, conferring powers and authority upon the Commissioner of Agriculture to administer the provisions of Chapter 5, General Laws, Second Called Session of the Thirty-third Legislature, Chapter 41, General Laws, First Called Session of the Thirty-fifth Legislature, and Chapters 116 and 126 of the General Laws, Regular Session of the Thirty-sixth Legislature, and such powers and duties as are conferred upon the Commissioner of Markets and Warehouses by Chapter 22, Acts of the Regular Session of the Thirty-seventh Legislature, and Chapter 38, Acts of the Second Called Session of the Thirty-eighth Legislature, or so much of said statutes as are in force; transferring the appropriations of the Markets and Warehouse Department and the Weights and Measures Department to the Commissioner of Agriculture; authorizing said Commissioner to rearrange salaries and eliminate duplicating offices or positions, and declaring an emergency,"

Have carefully compared same and find it correctly enrolled.

STOUT, Chairman.

Committee Room,

Austin, Texas, February 13, 1925.

Hon. Lee Satterwhite, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 130, "An Act to amend Section 1, Chapter 77, General Laws of the Thirty-eighth Legislature, Regular Session, providing for the omission of Houston, Wood and Cherokee counties, providing for the incorporation of Bexar county, and declaring an emergency,"

Have carefully compared same and find it correctly enrolled.

STOUT, Chairman.

Committee Room,

Austin, Texas, February 12, 1925.

Hon. Lee Satterwhite, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 230, "An Act authorizing the sale to the United States of America of the American Legion Memorial Sanatorium of Texas owned by the State of Texas and situated near the town of Kerrville in Kerr county, Texas, includ-

ing the lands, buildings, improvements, equipment and appurtenances thereunto belonging; regulating the price at which same shall be sold; providing the proper portion of the funds realized from such sale shall be placed in the State Treasury and making proper disposition of the remainder; authorizing the proper instrument of conveyance to be executed, and declaring an emergency."

Have carefully compared same and find it correctly enrolled.

STOUT, Chairman.

TWENTY-SEVENTH DAY.

(Monday, February 16, 1925.)

The House met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Satterwhite.

The roll was called and the following members were present:

Acker.	Enderby.
Albritton.	Farrar.
Alexander	Faulk.
of Bastrop.	Fields.
Alexander	Finlay.
of Limestone.	Florence.
Amsler.	Foster.
Atkinson.	Frnka.
Avis.	Graves.
Baker of Orange.	Gray.
Baker of Panola.	Hall.
Barker.	Harman.
Barron.	Harper.
Bateman.	High.
Bean.	Hollowell.
Bedford.	Hoskins.
Bird.	Hull.
Blount.	Jacks.
Boggs.	Jasper.
Brown.	Johnson.
Bryant.	Jordan.
Carter.	Justice.
Coffey.	Kemble.
Conway.	Kinnear.
Coody.	Kittrell.
Covey.	Laird.
Cox of Lamar.	Lane of Hamilton.
Cox of Navarro.	Lipscomb.
Cummings.	Loftin.
Dale.	Low.
Daniels.	Masterson.
Davis of Dallas.	Maxwell.
Davis of Wood.	McBride.
DeBerry.	McDonald.
Dielmann.	McDougald.
Dinkle.	McFarlane.
Donnell.	McGill.
Downs.	McKean.
Dunlap.	McNatt.
Dunn of Falls.	Merritt.
Dunn of Hopkins.	Moore.
Durham.	Nicholson.

Parish.	Smyth.
Pavlica.	Sparks.
Pearce.	Stautzenberger.
Perdue.	Stell.
Poage.	Stevens.
Pool.	Storey.
Pope.	Stout.
Powell.	Strong.
Rawlins.	Taylor.
Raymer.	Teer.
Renfro.	Thompson.
Rice.	Tomme.
Robinson.	Veatch.
Rogers.	Wade.
Rowland.	Walker.
Runge.	Wallace.
Sanford.	Webb.
Shearer.	Wells.
Sheats.	Westbrook.
Simmons.	Wester.
Simpson.	Williamson.
Sinks.	Wilson.
Smith of Nueces.	Woodruff.
Smith of Travis.	Young.

Absent.

Bobbitt.	Kayton.
Houston.	

Absent—Excused.

Bartlett.	King.
Bonham.	Lane of Harrison.
Cade.	Mankin.
Chitwood.	Montgomery.
Hagaman.	Petsch.
Irwin.	Purl.
Jones.	Rowell.
Kenyon.	Stevenson.

A quorum was announced present.

Prayer was offered by Rev. J. C. Mitchell, Chaplain.

LEAVES OF ABSENCE GRANTED.

The following members were granted leave of absence on account of important business:

Mr. Lane of Harrison for today, on motion of Mr. Jacks.

Mr. Cade for today, on motion of Mr. Rowland.

Mr. Hagaman for today, on motion of Mr. Sparks.

Mr. Albritton for today, on motion of Mr. Webb.

Mr. Bonham for today, on motion of Mr. High.

Mr. Montgomery for today, on motion of Mr. Wells.

Mr. Petsch for today and tomorrow, on motion of Mr. Runge.

Mr. Kenyon for today and tomorrow, on motion of Mr. Shearer.

Mr. Dielmann for today and tomorrow, on motion of Mr. Sinks.